

Second Lieut. Randall T. Kendrick.
 Second Lieut. Percy McCay Vernon.
 Second Lieut. Samuel W. Perrott.
 Second Lieut. Jay A. Richardson.
 Second Lieut. Milton Whitney, jr.
 Second Lieut. Emile J. Boyer.
 Second Lieut. Harry M. Bardin.
 Second Lieut. Joseph P. Guillet.
 Second Lieut. Leander Forest Conley.
 Second Lieut. Paul P. Reilly.
 Second Lieut. Peter J. Lloyd.
 Second Lieut. Paul S. Buchanan.
 Second Lieut. Cranston G. Williams.
 Second Lieut. Lewis B. Cox.
 Second Lieut. Theodore M. Cornell.
 Second Lieut. Launcelot M. Blackford.
 Second Lieut. Frederick W. Deck.
 Second Lieut. Fernand G. Dumont.
 Second Lieut. Stephen Y. Mann.
 Second Lieut. Joseph H. Payne.
 Second Lieut. George E. Braker, jr.
 Second Lieut. Paul V. Kellogg.
 Second Lieut. Langdon D. Wythe.
 Second Lieut. John O. Flautt, jr.
 Second Lieut. Giles F. Ewing.
 Second Lieut. Fred W. King.
 Second Lieut. Ivy W. Crawford.
 Second Lieut. John S. Fishback.
 Second Lieut. Robert S. Downing.
 Second Lieut. Clement A. Reed.
 Second Lieut. George M. Hancock.
 Second Lieut. Jesse B. Smith.
 Second Lieut. Selden S. Smith.
 Second Lieut. John R. Hodge.
 Second Lieut. Arthur R. Walk.
 Second Lieut. Leslie E. Toole.
 Second Lieut. Lewis A. List.
 Second Lieut. James F. Johnson, jr.
 Second Lieut. Francis M. Brady.
 Second Lieut. Eubert H. Malone.
 Second Lieut. Wayne B. Schmidt.
 Second Lieut. Theodore W. Crossen.
 Second Lieut. James F. Butler.
 Second Lieut. Herbert G. Peterson.
 Second Lieut. Truman M. Martin.
 Second Lieut. Veno E. Sacre.
 Second Lieut. Warner B. Van Aken.
 Second Lieut. Richard G. Plumley.
 Second Lieut. Charles R. Davis.
 Second Lieut. Cecil L. Rutledge.
 Second Lieut. Theodore C. Gerber.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 21, 1918.

The House met at 12 o'clock noon.

Rev. Ulysses G. B. Pierce, D. D., pastor of All Souls Church, Washington, D. C., offered the following prayer:

O Lord, our Heavenly Father, Almighty and Everlasting God, who hast safely brought us to the beginning of this day, defend us in the same with Thy mighty power and direct us with Thine infinite wisdom. May all our deliberations, begun in Thy name, be continued in Thy fear and ended to Thy glory. So, our Father, may we labor until the kingdoms of this world become the kingdom of our God and of His Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS.

Mr. CLARK of Florida rose.

The SPEAKER. For what purpose does the gentleman from Florida rise?

Mr. CLARK of Florida. I rise, Mr. Speaker, to ask unanimous consent to extend my remarks in the Record by printing a tribute by a newspaper in my district to a young lieutenant killed in France.

The SPEAKER. The gentleman from Florida asks unanimous consent to extend his remarks in the Record by printing an editorial from a Florida paper. Is there objection?

There was no objection.

Mr. BLACK. Mr. Speaker, I ask unanimous consent that my colleague, Mr. JONES of Texas, have leave to extend his remarks by printing a letter that he wrote to the Committee on Foreign Affairs concerning a resolution that he introduced.

The SPEAKER. The gentleman from Texas asks unanimous consent that his colleague [Mr. JONES] be permitted to extend his remarks in the Record by printing a letter that he wrote to the Committee on Foreign Affairs. Is there objection?

Mr. WALSH. Reserving the right to object, Mr. Speaker, that relates to some measure that is pending?

Mr. BLACK. Yes. I called attention to it before.

Mr. WALSH. I have no objection.

The SPEAKER. Is there objection?

There was no objection.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Sharkey, one of his secretaries.

EXCESS-PROFITS TAX REGULATIONS NO. 41.

Mr. BARNHART. Mr. Speaker, I submit a privileged resolution and ask for its present consideration.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House concurrent resolution 36 (H. Rept. No. 328).

Resolved by the House of Representatives (the Senate concurring), That there shall be printed 500,000 copies of the war excess-profits tax regulations No. 41—150,000 copies for the use of the Senate and 350,000 copies for the use of the House of Representatives, the same to be distributed through the folding rooms.

The SPEAKER. The question is on agreeing to the resolution.

Mr. DOWELL. Mr. Speaker, will the gentleman yield?

Mr. BARNHART. I yield.

Mr. DOWELL. How long will it take to have these copies ready for distribution?

Mr. BARNHART. I have the assurance of the Printing Office this morning that they will go right at them. They are now delivering the last primers ordered a week ago, so that it may be a week before they are out.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

INCOME TAX REGULATIONS NO. 33, REVISED.

Mr. BARNHART. Mr. Speaker, I submit another privileged resolution and ask its immediate consideration.

The SPEAKER. This is a privileged resolution?

Mr. BARNHART. Yes.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

House concurrent resolution 37 (H. Rept. No. 327).

Resolved by the House of Representatives (the Senate concurring), That there shall be printed 500,000 copies of the income-tax regulations No. 33, revised—150,000 copies for the use of the Senate and 350,000 copies for the use of the House of Representatives, the same to be distributed through the folding rooms.

The SPEAKER. Is not this the same resolution that was just passed?

Mr. BARNHART. No.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

STATUE OF JAMES BUCHANAN.

The SPEAKER. The Clerk will read the engrossed copy of the Buchanan Statue resolution.

The engrossed copy of House joint resolution 70 was read.

The SPEAKER. The question is—

Mr. STAFFORD. Mr. Speaker, I offer a motion to recommit the resolution with instructions to the Committee on the Library to report the same back forthwith with an amendment.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

Mr. STAFFORD moves to recommit by striking out all the remainder of the paragraph after the words "United States," page 1, line 7, down to the proviso, and inserting "on one of the public reservations generally known as 'small park areas' and which is entirely surrounded by streets in the city of Washington, D. C., to be selected by the officer in charge of public buildings and grounds and the Commission of Fine Arts."

Mr. SLAYDEN. Mr. Speaker, I move the previous question on that.

Mr. STAFFORD. Will the gentleman hold that for five minutes, in view of the erroneous ruling made by the gentleman from Kentucky [Mr. SHERLEY]? Will he not withhold it for five minutes?

Mr. SLAYDEN. Mr. Speaker, this is to gratify the gentleman from Wisconsin, who was in such a desperate hurry yesterday to get to the consideration of the railroad bill.

Mr. STAFFORD. The gentleman is putting words in my mouth that I did not use, and he is attempting to deprive this House of fair play.

Mr. GILLET. Mr. Speaker, I make the point of no quorum.
Mr. CRISP. Mr. Speaker, when the previous question was ordered the motion would not be debatable anyway.

Mr. STAFFORD. It is not a question of the previous question.

The SPEAKER. The motion for the previous question is not debatable and never has been.

Mr. CRISP. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. CRISP. The motion to recommit anyway would not be debatable, the previous question having been ordered on the passage of the bill.

The SPEAKER. This is a motion for the previous question on the motion to recommit.

Mr. CRISP. The previous question is ordered on a motion to recommit for the purpose of cutting off amendments to the motion to recommit; but where the previous question is ordered on the passage of the bill, I think the motion to recommit is not debatable. That is the parliamentary inquiry that I desire to propound to the Chair.

Mr. GILLET. It is debatable by unanimous consent.

Mr. CRISP. We can do anything by unanimous consent.

Mr. STAFFORD. If you will not allow three minutes to discuss a bona fide amendment—

Mr. GILLET. Under the circumstances, I make the point of no quorum, Mr. Speaker.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] moves the previous question on the motion to recommit, and the gentleman from Massachusetts [Mr. GILLET] makes the point of no quorum present. Evidently there is not.

Mr. KITCHIN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The SPEAKER. The Doorkeeper will lock the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, when the following Members failed to answer to their names:

Anthony	Fuller, Mass.	Lobeck	Rodenberg
Blackmon	Garland	McCormick	Rowland
Booher	Glass	McFadden	Sanders, La.
Britten	Gould	McLaughlin, Pa.	Scott, Iowa
Candler, Miss.	Hamill	Magee	Scully
Capstick	Hamlin	Maher	Snyder
Chandler, N. Y.	Harrison, Va.	Mann	Stedman
Costello	Haskell	Meeker	Steenerson
Curry, Cal.	Heintz	Miller, Minn.	Sullivan
Dallinger	Hensley	Miller, Wash.	Summers
Davidson	Holland	Mudd	Taylor, Colo.
Drukker	Hollingsworth	Nelson	Vare
Dyer	Hood	Nicholls, S. C.	Walker
Eagle	Howard	Oliver, Ala.	Webb
Edmonds	Johnson, S. Dak.	Olney	Wilson, La.
Emerson	Jones, Tex.	O'Shaunessy	Woods, Iowa
Fairchild, G. W.	Kelley, Mich.	Overmyer	Young, N. Dak.
Ferris	Kennedy, R. I.	Phelan	Zihlman
Fess	Kraus	Porter	
Flynn	LaGuardia	Rainey	

The SPEAKER. On this roll call 349 Members, a quorum, have answered to their names.

Mr. KITCHIN. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will unlock the doors.

Mr. GILLET. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin [Mr. STAFFORD] be allowed five minutes to explain this motion to recommit.

The SPEAKER. The gentleman from Massachusetts [Mr. GILLET] asks unanimous consent that the gentleman from Wisconsin [Mr. STAFFORD] be allowed five minutes in which to express his opinion.

Mr. SLAYDEN. Mr. Speaker, I hope that request will be granted. The gentleman has explained his reason.

The SPEAKER. Is there objection?

There was no objection.

Mr. STAFFORD. Mr. Speaker, the joint resolution as reported to the House provides for the location of this statue at Meridian Hill Park. In my motion to recommit, embodying the amendment which I sought to have voted upon yesterday, but when I was denied that privilege by reason of an erroneous ruling, this statue is to be located at a public reservation in one of the smaller park areas entirely surrounded by streets, of which there are numerous in different parts of the city. Regardless of the position which you may take as to whether the statue should be erected or not, it should at least, from my standpoint, and I think from the standpoint of the friends of the statue, be evident that we ought not to locate this statue of James Buchanan in the one public park that is destined to be rather historic as Washington grows in history. There are ample public reservations where the proposed statue could be erected, and even now these public reservations are being rapidly

taken up. It will be only a question of time when we will have to put the ban on the allowance of further statues on public reservations to persons whose fame is of a more or less doubtful character. But I plead with all Members that Meridian Hill Park, out Sixteenth Street, be reserved for future statues of celebrities who have made names for themselves in the past or who are now making names for themselves in the present European war. There are plenty of other places which would be fitting for this statue of James Buchanan. I leave the selection of the place to the officer in charge of public buildings and the Commission of Fine Arts. I believe it is a bad practice for a committee to locate the site where this statue should be placed, especially when that committee may have been influenced by representatives from localities where some of the trustees under this will reside. The site should be selected by the Commission of Fine Arts in collaboration with the Superintendent of Public Buildings and Grounds.

The Commission of Fine Arts should be allowed to determine what is a fitting place, and I can conceive of no more fitting place for a statue of James Buchanan than in one of these triangular parks. I merely rose to explain the purpose of the motion to recommit, and not wishing to take up any further time I submit the question for a vote.

The SPEAKER. The question is on adopting the previous question.

The previous question was ordered.

The SPEAKER. The question now is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. STAFFORD) there were 96 yeas and 164 noes.

So the motion to recommit was rejected.

The SPEAKER. The question now is on the passage of the joint resolution.

Mr. WALSH. And on that, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 213, nays 127, answered "present" 3, not voting 85, as follows:

YEAS—213.

Alexander	Doolling	Lazaro	Saunders, Va.
Almon	Doremus	Lea, Cal.	Scott, Pa.
Ashbrook	Doughton	Lee, Ga.	Sears
Aswell	Drane	Leser	Shackelford
Ayres	Dupré	Lever	Shallenberger
Bankhead	Eagan	Linthicum	Sherley
Barkley	Edmonds	Littlepage	Sherwood
Barnhart	Estopinal	London	Shouse
Beakes	Evans	Lomergan	Siegel
Bell	Fields	Lunn	Sims
Beshlin	Fisher	McAndrews	Sisson
Black	Flood	McFadden	Slayden
Blanton	Foster	McKeown	Slemp
Booher	Francis	McLemore	Small
Borland	French	Mansfield	Smith, C. B.
Brand	Gallagher	Martin	Smith, T. F.
Brodbeck	Gallivan	Mason	Snook
Browning	Gard	Montague	Stegall
Brumbaugh	Garner	Moore, Pa.	Steele
Buchanan	Garrett, Tenn.	Mott	Stephens, Miss.
Burnett	Garrett, Tex.	Mudd	Stephens, Nebr.
Butler	Glass	Neely	Sterling, Pa.
Byrnes, S. C.	Goodwin, Ark.	Nelson	Stevenson
Byrns, Tenn.	Gordon	Nolan	Strong
Caldwell	Gray, Ala.	Norton	Swift
Campbell, Pa.	Gregg	Oldfield	Tague
Cannon	Griest	Oliver, N. Y.	Talbott
Cantrill	Hardy	Osborne	Taylor, Ark.
Caraway	Harrison, Miss.	O'Shaunessy	Templeton
Carow	Hastings	Overstreet	Thomas
Carlin	Hayden	Padgett	Thompson
Carter, Okla.	Hayes	Park	Tillman
Clark, Fla.	Heaton	Parker, N. J.	Van Dyke
Claypool	Heflin	Peters	Venable
Coady	Helm	Polk	Vinson
Collier	Helvering	Pou	Walton
Connally, Tex.	Hilliard	Price	Ward
Connely, Kans.	Houston	Quin	Watkins
Copley	Huddleston	Ragsdale	Watson, Pa.
Cox	Hull, Tenn.	Raker	Watson, Va.
Crago	Humphreys	Randall	Weaver
Crisp	Igoe	Rayburn	Webb
Crosser	Jacoway	Riordan	Wellington
Dale, N. Y.	Johnson, Ky.	Robbins	Welty
Darrow	Jones, Va.	Roberts	Whaley
Davis	Keating	Robinson	White, Ohio
Decker	Kehoe	Romjue	Wilson, Tex.
Dent	Kettner	Rose	Wingo
Dewalt	Key, Ohio	Rouse	Wise
Dickinson	Kless, Pa.	Rowe	Wright
Dies	Kincheloe	Rubey	Young, Tex.
Dill	Kitchin	Rucker	
Dixon	Kreider	Russell	
Dominick	Larsen		

NAYS—127.

Anderson	Browne	Cooper, Ohio	Davidson
Anthony	Burroughs	Cooper, W. Va.	Dempsay
Austin	Campbell, Kans.	Cooper, Wis.	Denison
Baer	Cary	Cramton	Dillon
Bland	Chandler, Okla.	Currie, Mich.	Doolittle
Bowers	Classon	Dale, Vt.	Bowell

Dunn	Haugen	McLaughlin, Mich.	Smith, Mich.
Elliot	Hawley	Madden	Snell
Ellsworth	Hershey	Mapes	Stafford
Elston	Hull, Iowa	Mays	Sterling, Ill.
Esch	Husted	Merritt	Stinson
Fairfield	Hutchinson	Moore, Ind.	Sweet
Farr	Ireland	Morgan	Temple
Focht	James	Nichols, Mich.	Timberlake
Fordney	Johnson, Wash.	Palge	Tinkham
Foss	Juhl	Parker, N. Y.	Towner
Frear	Kahn	Platt	Treadway
Freeman	Kearns	Powers	Vestal
Fuller, Ill.	Kelly, Pa.	Pratt	Volgt
Gandy	Kennedy, Iowa	Purnell	Volstead
Gillett	King	Ramsey	Waldow
Glyn	Kinkaid	Ramseyer	Walsh
Good	Knutson	Reavis	Wason
Goodall	La Follette	Rogers	Wheeler
Graham, Ill.	Lehlbach	Sanders, Ind.	White, Me.
Graham, Pa.	Lenroot	Sanders, N. Y.	Williams
Green, Iowa	Little	Schall	Wilson, Ill.
Greene, Mass.	Longworth	Scott, Mich.	Winslow
Greene, Vt.	Lufkin	Sells	Wood, Ind.
Hadley	Lundeen	Sloan	Woods, Iowa
Hamilton, Mich.	McCulloch	Smith, Idaho	Woodyard
Hamilton, N. Y.	McKenzie		

ANSWERED "PRESENT"—3.

Gray, N. J. Langley Sabbath

NOT VOTING—85.

Bacharach	Fuller, Mass.	McArthur	Rowland
Blackmon	Garland	McClintic	Sanders, La.
Britten	Godwin, N. C.	McCormick	Sanford
Candler, Miss.	Gould	McKinley	Scott, Iowa
Capstick	Hamill	McLaughlin, Pa.	Scully
Carter, Mass.	Hamlin	Magee	Sinnot
Chandler, N. Y.	Harrison, Va.	Maier	Snyder
Church	Haskell	Mann	Stedman
Clark, Pa.	Heintz	Meeker	Steenerson
Costello	Hensley	Miller, Minn.	Sullivan
Curry, Cal.	Hicks	Miller, Wash.	Sumners
Dallinger	Holland	Mondell	Switzer
Denton	Hollingsworth	Morin	Taylor, Colo.
Drukker	Hood	Nicholls, S. C.	Tilson
Dyer	Howard	Oliver, Ala.	Vare
Eagle	Johnson, S. Dak.	Olney	Walker
Emerson	Jones, Tex.	Overmyer	Wilson, La.
Fairchild, B. L.	Kelley, Mich.	Phelan	Young, N. Dak.
Fairchild, G. W.	Kennedy, R. I.	Porter	Zihlman
Ferris	Kraus	Rainey	
Fess	LaGuardia	Reed	
Flynn	Lobeck	Rodenberg	

So the joint resolution was passed.

The following pairs were announced:

Until further notice:

Mr. HENSLEY with Mr. KELLEY of Michigan.

Mr. OLIVER of Alabama with Mr. GEORGE W. FAIRCHILD.

Mr. FERRIS with Mr. HOLLINGSWORTH.

Mr. HOWARD with Mr. McLAUGHLIN of Pennsylvania.

Mr. WILSON of Louisiana with Mr. LANGLEY.

Mr. CHURCH with Mr. BACHARACH.

Mr. DENTON with Mr. BRITTEN.

Mr. EAGLE with Mr. CARTER of Massachusetts.

Mr. FLYNN with Mr. BENJAMIN L. FAIRCHILD.

Mr. GODWIN of North Carolina with Mr. FESS.

Mr. HAMILL with Mr. GARLAND.

Mr. HAMLIN with Mr. DYER.

Mr. HOOD with Mr. CHANDLER of New York.

Mr. JONES of Texas with Mr. HASKELL.

Mr. LOBECK with Mr. COSTELLO.

Mr. McCLINTIC with Mr. KENNEDY of Rhode Island.

Mr. MAHER with Mr. McKINLEY.

Mr. NICHOLS of South Carolina with Mr. MEEKER.

Mr. OLNEY with Mr. MILLER of Minnesota.

Mr. OVERMYER with Mr. REED.

Mr. PHELAN with Mr. RODENBERG.

Mr. RAINEY with Mr. SNYDER.

Mr. SANDERS of Louisiana with Mr. STEENERSON.

Mr. STEDMAN with Mr. SWITZER.

Mr. SULLIVAN with Mr. TILSON.

Mr. SUMNERS with Mr. ZIHLMAN.

Mr. TAYLOR of Colorado with Mr. DALLINGER.

Mr. WALKER with Mr. ROWLAND.

Mr. SCULLY with Mr. CURRY of California.

On this vote:

Mr. HICKS (for) with Mr. McARTHUR (against).

Mr. CANDLER of Mississippi (for) with Mr. MAGEE (against).

Mr. HOLLAND (for) with Mr. FULLER of Massachusetts (against).

Mr. HARRISON of Virginia (for) with Mr. GOULD (against).

Mr. BLACKMON (for) with Mr. EMERSON (against).

The result of the vote was then announced as above recorded.

On motion of Mr. SLAYDEN, a motion to reconsider the vote whereby the joint resolution was passed was laid on the table.

STATUARY IN THE CAPITAL.

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by inserting therein an ad-

dress delivered by Gen. ISAAC R. SHERWOOD on statuary in the Capital.

The SPEAKER. The gentleman from California asks unanimous consent to extend his remarks in the Record in the manner stated. Is there objection?

There was no objection.

EXTENSION OF REMARKS.

Mr. MASON. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by inserting therein a copy of a memorandum of a dispatch to the Secretary of State of the United States from the envoy of the provisional government of Ireland, dated February 17, 1918. It is not very long.

The SPEAKER. The gentleman from Illinois [Mr. MASON] asks unanimous consent to extend his remarks in the Record by printing a letter to the Secretary of State. Is there objection?

Mr. WALSH. I object.

The SPEAKER. The gentleman from Massachusetts objects.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. JOHNSON of Washington for Friday and Saturday; and To Mr. KRAUS (at the request of Mr. Wood of Indiana), indefinitely, on account of sickness.

ORDER OF BUSINESS.

Mr. MASON. Mr. Speaker, I ask unanimous consent to address the House for four minutes.

The SPEAKER. The gentleman from Illinois asks unanimous consent to address the House for four minutes. Is there objection?

Mr. SIMS. Mr. Speaker, I object.

The SPEAKER. The gentleman from Tennessee objects.

FEDERAL CONTROL OF RAILROAD TRANSPORTATION.

Mr. SIMS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 9685, to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes. Pending that motion, I wish to know if we can not have some agreement in respect to the closing of general debate?

The SPEAKER. Has the gentleman any suggestion to make?

Mr. SIMS. Yes. I ask unanimous consent that all general debate on the pending bill close upon the rising of the committee this afternoon, not later than 6 or 6.30 o'clock.

The SPEAKER. Is there objection?

Mr. ESCH. Mr. Speaker, we have lost almost an hour and a half already to-day. To-morrow there is a special order, which will take possibly an hour, and if the Committee on Invalid Pensions claims the day we may lose another half hour, so that I feel we can not agree to the proposition made by the gentleman from Tennessee. I have requests from members of the committee that will consume at least two hours and a half. Five members of the committee on this side have not yet debated the question. I have requests from 16 other Members of the House asking for time. I believe under the circumstances we should devote all day to-morrow to general debate, and I think we will make time by so doing.

Mr. SIMS. Mr. Speaker, this measure is so important that I do not think we need to emphasize its importance. The unanimous-consent agreement under which we are considering the bill is that it shall be considered until concluded when taken up, with the exception of Calendar Wednesday and conference reports; so as far as pension matters are concerned they can be delayed. I do not know about the terms of the special order for to-morrow. I will make this further request, that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow, and that all general debate on the bill close not later than 3 o'clock to-morrow. That will give abundant time for any real discussion that is needed in general debate.

Mr. GILLET. Why not wait until to-night before making that request?

Mr. SIMS. I desire that there may be as much liberality as possible when we come to consider the bill for amendment under the five-minute rule, and the time of gentlemen may be extended when talking not directly to what may be before the House, when Members are in much better attendance than they are in general debate. I hope the gentleman will agree to that request.

Mr. LENROOT. Mr. Speaker, reserving the right to object, so far all of the time that has been consumed upon the bill has been consumed by members of the committee.

Mr. SIMS. Oh, no.

Mr. LENROOT. With two exceptions.

Mr. LANGLEY. Practically all of the time has been consumed by members of the committee.

Mr. LENROOT. Practically all of it, and to-day will be taken, I understand, by members of the committee. Does not the gentleman think there should be reasonable opportunity for those who are not members of the committee who desire to discuss this bill in general debate to do so?

Mr. SIMS. There are at least four hours and a half that we can devote to general debate to-day. That is two hours and a quarter on a side. If we meet at 11 o'clock to-morrow, even if an hour should come out, that would give three hours for general debate to-morrow.

Mr. LENROOT. That is an hour and a half on a side. I want to say to the gentleman that I very much desire to have an hour, and I have stated to the gentleman what I personally desire. I want to have the time in general debate, because I think the committee will want to consider some of the suggestions that I have to make.

Mr. KITCHIN. Could not the gentleman from Tennessee give gentlemen on the other side two-thirds of his time to-morrow?

Mr. SIMS. I would want to reserve, in order to close, if need be, 30 minutes, but I will say right now that I shall yield one hour of the equal time to be disposed of as the gentleman from Wisconsin [Mr. Esch] may see proper.

Mr. AUSTIN. Is not to-morrow pension day in the House?

Mr. GARNER. Yes; but the unanimous-consent agreement puts it out of the way.

Mr. LANGLEY. It is pension day, but it will not take very long.

Mr. GILLET. Why does not the gentleman let the debate run to-day and make an agreement to meet at 11 o'clock to-morrow for general debate, and then see how far we have gotten to-day, and see whether members of the committee have all used up their time, because I think the gentleman wants to be reasonable, and it is certainly fair that Members on this side of the House, outside of the committee, should get more than an hour and a half, it seems to me.

Mr. SIMS. Well, that is a matter entirely with that side of the House when I offer here to yield one hour and give them one hour more than consumed on this side, and have all the afternoon until 3 o'clock—I will make it 4 o'clock.

Mr. LENROOT. Make it all day.

Mr. SIMS. No; I will offer a motion to close debate rather than that; but I do hope the gentleman will consent to 4 o'clock, with the understanding that he may have an hour and a half the advantage of this side in the division of the time.

The SPEAKER. Has the gentleman any other request to make?

Mr. SIMS. The request is this: I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow, and that all general debate on this bill close not later than 4 o'clock to-morrow, the gentleman from Wisconsin [Mr. Esch] in the division of time to have one hour and a half more than this side.

Mr. WALSH. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman from Massachusetts rise?

Mr. WALSH. Mr. Speaker, reserving the right to object, it seems to me that a matter which the chairman has stated is of such great importance that there should not be any arrangement entered into whereby the committee have two whole days of general debate and the rest of the membership of this House be permitted to have only four hours of participation in general debate, and I think it is not unfair to ask that the whole of to-morrow be devoted to general debate, so that other Members who are just as well able to discuss this matter in general debate as some of the members of the committee, who have been unable to answer questions relating to the bill, may be heard; and therefore I shall object to the request.

The SPEAKER. The gentleman objects.

Mr. SIMS. Mr. Speaker, I move that all general debate upon this bill—I mean the railroad-control bill—close not later than 4 o'clock to-morrow.

Mr. LANGLEY. That does not give enough time, I want to say to the gentleman.

Mr. SIMS. This is not debatable.

The SPEAKER. The gentleman from Tennessee moves that general debate on this railroad bill shall close at 4 o'clock p. m. to-morrow.

Mr. WALSH. Mr. Speaker, I would like to offer an amendment to make it not later than 6 o'clock to-morrow.

Mr. SIMS. I move the previous question on my motion—

The SPEAKER. But the gentleman from Massachusetts has been recognized proposing a substitute of 6 o'clock for 4 o'clock.

The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken, and the Speaker announced the ayes seemed to have it.

On a division (demanded by Mr. SIMS) there were—ayes 116, noes 62.

So the amendment was agreed to.

The SPEAKER. Does the gentleman want the 11 o'clock request submitted?

Mr. SIMS. No.

Mr. LENROOT. Mr. Speaker, the motion as amended must be put.

The SPEAKER. Yes. The question is on the motion as amended.

The question was taken, and the motion as amended was agreed to.

Mr. DOWELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DOWELL. Was not the request to meet at 11 o'clock included in the motion?

The SPEAKER. No; the motion was only to close debate at 4 o'clock.

Mr. SIMS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 9685.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 9685, with Mr. GARRETT of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 9685, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 9685) to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes.

Mr. SIMS. Mr. Chairman, I yield one hour to the gentleman from Pennsylvania [Mr. DEWALT], a member of the committee. [Applause.]

Mr. DEWALT. Mr. Chairman and gentlemen of the committee, judging from the statements made by the distinguished gentleman from Massachusetts I am fully aware that this subject, which we are about to discuss, is one of great importance. He emphasized that fact by saying that he was quite sure that there were Members of the House, other than members of the committee, who were quite equal to the task of discussing this bill. I grant him that, because in the very outset of my remarks I desire to say that the importance and the gravity of this bill is of such momentous character that, even though I as a member of the committee have been engaged in hearings for almost four weeks, I do not have the temerity to say that I am entirely able to discuss comprehensively and lucidly the provisions of this bill. The importance of it is beyond question, and perhaps in the outset it might be well to refer to some matters that make it so important for the earnest consideration of this great body. In the first place, the property rights of the railroad companies amount in the aggregate, roughly estimating the same, to over \$18,000,000,000 in this country, and this legislation will vitally affect that tremendous amount of property interest. The mere statement of that fact is sufficient to warrant me in stating that this is one of the most important bills presented to this Congress. Again, there are 1,700,000 employees engaged by these railroad companies. Who would dare to assert in contradiction that their interests should not be conserved and preserved, and if that be true, then again the importance of this great measure must become apparent to you. Added to that you should remember that there are over 250,000 miles of railroad lines in this country that must be affected by this legislation. Added to that fact is another which is quite important, and that is that there are hundreds of thousands of stockholders in these corporations whose moneyed interests will be vitally affected by the passage or the nonpassage of this bill. And so whilst one perhaps is able, after hearings held in committee, to have some general knowledge of the subject that he is about to discuss, I am very frank to say to this membership that I am quite aware of my own deficiencies. I claim no pride of authorship in this bill, nor do I attempt to assert that it is a perfect bill.

Mr. CANNON. Mr. Chairman, I would make the suggestion that the gentleman has omitted from his list of those who are vitally interested the 110,000,000 people in the United States.

Mr. DEWALT. If the gentleman from Illinois had permitted me a moment, I would have referred to that as perhaps the most important of all the considerations, and I am very glad the gentleman introduced it just the moment that he did. The

great question of rates in this controversy is certain to be raised, and, after all, in the ultimate conclusion, if the gentleman from Illinois will permit me to suggest, it is the consumer who ultimately pays the freight. And it is entirely suggestive and proper that the gentleman from Illinois should say that 110,000,000 people are vitally interested in this legislation, because as the rates are changed, either for freight or passenger traffic, or as the management of these roads is changed ultimately, the people—men, women, and children—throughout the country must, in the popular expression used, "pay the freight."

Now, let us drop for a moment, if you please, the consideration of the importance of this legislation. The next thought that occurs to me, and possibly will occur to you, is, logically, admitting the importance of it, where is the necessity for it? The necessity for it became quite apparent to every man who had the situation in hand, and particularly and strongly apparent to the membership of this committee. The whole Nation knew, and everyone now is convinced, of the fact that the railroad systems of the country had, according to popular expression, "broken down." Freight traffic, passenger traffic, all sorts of transportation facilities, were congested and for the time being almost at a standstill. What were the causes of this great discomfort to the people of this country? Was it the fault of the Government? No one could fairly charge that that was true. Was it the fault of the railroads? Partially so; yes. I think an affirmative answer could be given to that proposition. But there were other reasons which were momentous and almost paramount in regard to this great disaster that fell upon the country almost overnight. What were they?

There was a tremendous demand for transportation. When the war came on, and when we were preparing for entrance into the war, it became necessary to make shipments almost beyond comparison with the shipments that had been made in years prior to our proposed entrance into the contest. The natural consequence was that freight traffic was congested. And the sequence of that congestion, and the sequence also of the demand of the Government for shipments of war munitions, led to priority orders, and priority orders meant in substance that governmental shipments should take precedence of all other shipments. And for that reason, and for other reasons consequent thereon, there was this congestion in freight and passenger traffic. Added to that was the apparent desire, futile in the end, of the railroad managers to help the Government; and you will remember better perhaps than I can tell you, that there was a War Board of Railroads established, which War Board of Railroads, consisted of the general managers and presidents of the various roads of the country. To their credit, and I desire to voice that sentiment now, be it said, that they did the best they could under the circumstances, and they displayed loyalty and public spirit which deserves the recognition of the people of this country. Unfortunately, however, they were hampered. They were unable to do that which the Government desired and which they were willing to do. How were they hampered? They were hampered by the Sherman law, and they were constrained by the rules and regulations of the Interstate Commerce Commission. Priority shipments were clearly against the provisions of these two methods of regulation. The routing of freight was clearly against the provisions of the Interstate Commerce regulations, and they did under the law the best they could, but it was finally found that it was entirely inefficient, and that in order to render the service that the Government demanded, and in order to serve the public at the same time, it became necessary to do what?

It became necessary in the judgment of the Government itself, and of the committee acting under the authority of this House, to devise some means by which these rules and regulations should either be made lax, made wider, if you please, or entirely abrogated. Perhaps no more explicit and suggestive illustration of this fact can be shown than that of demurrage. There is not a man within the hearing of my voice who does not know that there were thousands of freight cars that were used as storage places. They were filled with freight; they arrived at terminal stations and remained unloaded, not only for days but sometimes for weeks. And the fact was disclosed in the hearings that sometimes these cargoes of freight in these cars were sold and resold, and again sold and resold, without ever being unloaded. All of this resulted, as I am trying to show you, in this great disaster to the transportation systems of the country.

Mr. DENISON. Will the gentleman yield?

Mr. DEWALT. I will.

Mr. DENISON. I was going to ask the gentleman right at that point if he does not think that situation could have been

met by Congress repealing those regulations and suspending the Sherman law?

Mr. DEWALT. It could have been met in that way, and that was suggested by the Interstate Commerce Commission itself, and there were two remedies, one of which you suggest and that which is now proposed. I am frank to admit that, sir. And in this discussion I beg pardon, gentlemen, for desiring, if possible, to answer all pertinent questions which may be submitted to me, disclaiming to have any more knowledge than anybody else has upon the subject, and I am quite sure that if the questions be relevant, material, and pertinent I will receive information and perhaps be able in my modest way to impart some.

Mr. CONNALLY of Texas. Will the gentleman yield?

Mr. DEWALT. Certainly.

Mr. CONNALLY of Texas. Right in this connection, in touching the causes of the congestion, I am interested to know what the gentleman's views are in reference to how far the diversion of traffic from other ports to New York contributed to that condition?

Mr. DEWALT. I think you had better put that, sir, in the other way. "Nondiversion" to those ports would, in my judgment, be a more explicit term. It is true that the port of New York, by the natural influx and reflex of trade in this country, is the greatest port in the country; and it is also true, and shown by the testimony in some of these hearings that the ports of Charleston, Savannah, New Orleans, and Philadelphia, if you please, also included, do not have the terminal facilities that New York has. They do not have the depth of water for large vessels, and the natural consequence is that trade seeks its easiest channel. It is like the flowing of the blood in the human body. If the veins are congested the blood does not readily flow, and the system become affected or possibly ceases its functions. And the question is very pertinent from the fact that if Savannah, Charleston, and New Orleans, and Philadelphia, too, if you please, in my own State, had the terminal facilities and the depth of water, which possibly they have not, a great deal of this freight would be diverted from New York and would go to those other ports.

Mr. WHALEY. Mr. Chairman, will the gentleman permit a question right there?

Mr. DEWALT. Certainly.

Mr. WHALEY. You say the diversion of traffic from those ports was because of the lack of water at those ports. Is it not a matter of fact that those ports have that depth of water?

Mr. DEWALT. I understand the gentleman from South Carolina has received an appropriation quite monumental, in its aggregate, which will give the required depth of water at Charleston.

Mr. WHALEY. I would like to correct that. There is a depth of water already there sufficient to float any ship of the United States or any that England sends over here with the exception of the *Mauretania*.

Mr. DEWALT. I hope it will be increased to a depth of 35 feet and the appropriation in like proportion.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield there?

Mr. DEWALT. Certainly.

Mr. MOORE of Pennsylvania. I think the gentleman ought to advise the committee that Philadelphia has an assured high-tide depth now of 35 feet, and is capable of accommodating twice as much business as goes into that port, and that it has terminal and docking facilities sufficient to take over a vast part of the business that now clogs New York.

Mr. DEWALT. I entirely agree with the gentleman, and yet strange it is that the general public throughout the West has an idea that Philadelphia has not the requisite terminal facilities and the proper depth of water.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DEWALT. Yes.

Mr. GREEN of Iowa. I think the West is not quite that much in error and that they know something about the depth of water at Philadelphia. But regardless of that, is not the gentleman aware of the fact that it is now conceded that a great mistake was made in sending so much freight to New York, and that arrangements have been made for its diversion to these other ports to a very considerable extent?

Mr. DEWALT. I am very glad that is so.

Mr. SLOAN. Mr. Chairman, will the gentleman yield?

Mr. DEWALT. Yes.

Mr. SLOAN. I would say that the misinformation throughout the country as to the port of Philadelphia was in no wise due to a lack of diligence and repeated statements on the part

of the distinguished gentleman from Philadelphia [Mr. MOORE], of whom I have distinct recollections on several occasions as having mentioned, first, that there was such a port as Philadelphia and that the port was made up largely of water, and, second, that it was of great depth, corresponding therewith to his arguments and his speeches delivered here on the floor. [Laughter.]

Mr. DEWALT. Well, I do not want to reply to that at all, except to say this: That the gentlemen who reside in the beloved city from which the gentleman from Philadelphia comes are largely of the Quaker element and are always very modest; they are not like those of the West and they do not blow their horns so loudly. [Laughter and applause.]

Mr. MOORE of Pennsylvania. Of course I thank the gentleman from Nebraska [Mr. SLOAN] and the equally distinguished gentleman from Pennsylvania [Mr. DEWALT] for the fine personal compliments they have paid to me, but I would like the gentleman to permit me to incorporate in his remarks this fact, that Boston has a depth of 35 feet, that Baltimore has a depth of 35 feet, that Philadelphia has a depth of 35 feet, that Charleston has a depth of at least 30 feet, that Savannah has a depth of 30 feet, and so on down the line; as all those ports south of New York are nearer to the West than New York is, it is not strange that people should wonder why all the business of the West and of the South should be concentrated at the port of New York.

Mr. DEWALT. Whatever the reason is, the fact is quite apparent, and the result is the same. I am very glad that my colleague from Pennsylvania has given not only me but the House and the committee the information that it is so important for the people at large to know.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. DEWALT. Certainly.

Mr. ALEXANDER. When the gentleman was diverted he was discussing the limitations caused by the accumulation of cars on the sidings and the use of them for storehouse purposes instead of for transportation. That was not caused by any provision of law. That condition might have been remedied by the railroad companies themselves, might it not?

Mr. DEWALT. Yes.

Mr. ALEXANDER. The gentleman also referred to the fact that under the provisions of the Interstate Commerce law—and I think he mentioned section 6—there were certain limitations which prevented the railroad companies from developing their system and making them as efficient as they may be under this legislation.

Mr. DEWALT. I did not mention the section, but that was my idea; yes.

Mr. ALEXANDER. I would like to ask the gentleman to develop that thought and tell us just what those provisions are; in other words, why these roads under private ownership could not be developed and utilized just as well as if those limitations were removed and the roads taken out of governmental control?

Mr. DEWALT. The only question that arises here, if the gentleman will permit me, is this, that in spite of the fact that we have a demurrage system, and in spite of the fact that the Government and the railroads themselves have been very assiduous in collecting this demurrage, the shippers of freight are willing to pay the demurrage in order to have the storage facilities of the cars. They simply laugh at the idea of demurrage, because they think it cheaper to pay the demurrage than to take the freight off the cars in proper time except at that time suits their convenience. That is the truth of it.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. DEWALT. Yes.

Mr. AYRES. Is it not a fact that the railroads themselves utilize a great many cars for storage purposes?

Mr. DEWALT. I am sorry to say that I think that is so. I am not here with any bill or brief for the railroad companies, nor do I excuse them at all for their laxity in not enforcing the rules which they themselves have made—and the regulations of the Interstate Commerce Commission. But there is very little use, gentlemen, in decrying these evils or blaming John or James for the existence thereof. We have a condition confronting us, and the question is, How are we to remedy it? Not "Who is to blame?" Not "Why he or it is to blame?" But the blame being here, and the condition existing, the question is, "What is the best thing to do under the circumstances?"

Now, let me proceed for a moment further, leaving that phase of the topic and going to another: Admitting the importance of the subject we are discussing, and admitting, if you please, the necessity for the legislation, as we have tried to point out,

how did the legislation come about? And how is it that we now have before us this bill?

It came about in this way. You will recollect it, perhaps, without any refreshment of your memory on my part. In 1916 there was a bill enacted into law entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes." In that appropriation bill was the following section:

The President, in time of war, is empowered, through the Secretary of War, to take possession and assume control of any system or systems of transportation, or any part thereof, and to utilize the same, to the exclusion as far as may be necessary of all other traffic thereon, for the transfer or transportation of troops, war material and equipment, or for such other purposes connected with the emergency as may be needful or desirable.

That act was passed August 29, 1916, and, gentlemen, I desire to enforce upon your attention this very momentous thing, that although in the judgment of a great many eminent lawyers, some of whom I have consulted, the President, under the provisions of the act of 1916, had the authority and the right then and there to take possession of and assume control of the railroad systems of this country, he did not do that. Why did he not do it? Of course, again I may say, I hold no brief for the President of the United States, but the very fact that he did not do so is evidence to my mind that he was using the best of sound judgment in preparing the country at large for this momentous action when he must take over the railroad systems of the country. I have heard it said here that this was an assumption of authority by the President of the United States that was almost autocratic in its exercise. I grant you we have proceeded along the lines of almost revolutionary processes; I grant you that an old-line Democrat like myself, reared with the idea that the Constitution must be strictly conserved and observed, is sometimes frightened, almost appalled, at these momentous powers that are given to the Executive. But the very fact that the President did not exercise them when he had the right to exercise them, if he saw fit, and that he waited all this time, until it became quite apparent to him and the country at large that it must be done, is good assurance to me that he did not desire and never assumed autocratic powers. [Applause.]

Mr. FORDNEY. Will the gentleman yield?

Mr. DEWALT. Certainly, sir.

Mr. FORDNEY. In section 6, page 9, of the bill there is this language:

From said revolving fund the President may expend such an amount as he may deem necessary or desirable for the purchase, construction, or utilization and operation of canals, boats, barges, tugs, and other transportation facilities on the inland, canal, and coastwise waterways, and may in the acquisition, operation, and use of such facilities create or employ such agencies and enter into such contracts and agreements as he shall deem in the public interest.

Does the gentleman think in order to carry on this war it is necessary that the Government should purchase inland canals that will not admit ships?

Mr. DEWALT. If the gentleman will permit me to answer that question when I get to the discussion of the different sections of the bill, I will be very much obliged; but the power to purchase inland canals is, in my judgment, not contemplated in the act.

Mr. FORDNEY. I shall be very glad to do it.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. DEWALT. No; not for the present. I know the gentleman is very much interested in the subject of inland waterways, and his knowledge is authority on that subject.

Mr. MOORE of Pennsylvania. I do not want to interrupt the gentleman, but should like through him to remind the gentleman from Michigan [Mr. FORDNEY] that hundreds of barges laden with lumber have been using some of the canals referred to, while others have been delayed because the railroads were incapable of taking their cargoes, with the result that ship construction has been held up and the war has not proceeded as rapidly as it should.

Mr. DEWALT. Now, resuming the thought that was in my mind, gentlemen, after this provision in the appropriation bill of 1916 was incorporated into the law, then there was this period of preparation, as I have tried to illustrate. And then there followed what? A proclamation by the President of the United States, in which he said that he would do what?

Take possession and assume control at 12 o'clock noon on the 28th day of December, 1917, of each and every system of transportation and the appurtenances thereof located wholly or in part within the boundaries of the continental United States and consisting of railroads and owned or controlled systems of coastwise and inland transportation engaged in general transportation, whether operated by steam or by electric power including also terminals, terminal companies, and terminal associations, sleeping and parlor cars, private cars and private car lines, elevators, warehouses, telegraph and telephone lines, and all other equipment and appurtenances commonly used upon or operated as a part of such rail or combined rail-and-water systems of transportation.

We then have as a consummation of these facts that I have tried to give you, first, the importance of the legislation; second, the necessity of it; third, the passage of the act of 1916; and fourth, the proclamation of the President of the United States. We have this fact, that now the President is in actual control of the railroad systems of this country. Why do I try to emphasize that statement? I emphasize it, gentlemen, for this reason, that it brings me to the discussion now in regular order of the bill itself. When the President took over the railroads, as we say in popular terms, when he assumed control and took possession thereof, he was taking private property for public use, and, as we all know, the Constitution provides that there must be payment for such taking. The question then naturally came to the mind of the legislator as well as to the mind of the Executive, What means can be best devised to pay this stipulated sum or, if not stipulated, how shall this remuneration be made?

If it were a complete taking over, if it were not only an occupation but a confiscation or a commandeering, which meant not only the use but the actual possession of the property for an indefinite or a definite time, which meant ownership, the question might be easier of solution, because it would amount to an appraisal of the value of the property, an appraisal of the franchise, and other concomitant features which go into such an appraisal, and then a lump sum could be paid by the Government for such taking. But this taking is different. This is the taking of the use for a time. What is that time? For and during the war, and for such a reasonable time thereafter, not exceeding a stipulated time, to wit, two years after the ratification of the treaty of peace.

It therefore became, in the mind of every sensible man who was studying this situation, a startling question as to what should be paid. There were several theories presented. I do not desire at this time, nor do I have the time to cover the several theories that were presented to the committee. But this bill provides a specific method of arriving at what should be paid to the different railroad companies.

Mr. LAZARO. Will the gentleman yield in this connection? Mr. DEWALT. Certainly.

Mr. LAZARO. In explaining this feature of the bill will the gentleman explain how the British handled that feature of it when they took possession of their railroads?

Mr. DEWALT. I shall be very glad to, as well as I am able, sir. The Government of Great Britain had an act passed in 1871 which gave the Government the right to take over, without any further proceedings, the railroads in the United Kingdom. When the war came, in 1914, the Government took over the railroads. It was first asserted that they did it without any regard or agreement as to compensation, but they did afterwards make an agreement. They made an agreement in the spring after the war in August, 1914. They have continued the operation and extended the power week by week. Instead of for a time limited they extend the power week by week.

Mr. MONTAGUE. Every two weeks.

Mr. DEWALT. Every two weeks is it? Pardon me for saying one. The first system was for a pooling of railroad income. They paid to the lines for operating the amount that they had received for the years 1914 and 1913, dependent in amount as to whether the business of the first six or seven months of 1914 was in excess of the business done in the last six months of 1913.

After pooling all these rates, both for passenger and freight traffic, they divided the receipts in proportion to the amount of earnings the various roads had had prior to that time. That arrangement was again changed for what was called an inclusion of the bonus system. The labor agitation came on, and the laborers on the railroads insisted that they must have higher pay. The Government then said that they would guarantee a 25 per cent increase to the laborers on the railroads, and the amount given to the railroads was not made less by reason of the bonus, for the Government stood for the bonus. That bonus has again been increased 10 per cent and includes not only the male laborers but the females in the railroad offices taking the place of male employees.

Mr. RUSSELL. Will the gentleman yield?

Mr. DEWALT. Yes.

Mr. RUSSELL. I find that there are a number of small railways in Missouri that believe—whether it is true or not I do not know—that the action of taking the larger systems, to the exclusion of the short lines, is going to drive them into bankruptcy. Will the gentleman discuss the wisdom of the order or the law that excludes from operation under the Government of these small roads?

Mr. DEWALT. I will be pleased to do so hereafter.

Mr. DENISON. Will the gentleman yield?

Mr. DEWALT. Yes.

Mr. DENISON. My inquiry is suggested by the reply of the gentleman to the gentleman from Louisiana in reference to the labor troubles in England. I would like to ask the gentleman if he remembers the fact that there was a threatened and impending strike among the railroad employees of this country just before the President issued his program in December?

Mr. DEWALT. I am not certain about that.

Mr. COOPER of Ohio. If the gentleman will pardon me, I do not think there was any threatened strike; they did make a demand for increase of wages.

Mr. DEWALT. I do not think that since the passage of the Adamson bill there has been any threatened strike on the part of the employees of the railroads.

Mr. DENISON. Perhaps it was in the form of a general demand for increased wages.

Mr. DEWALT. There has been a demand for increased wages—the first demand was 40 per cent, but that has been graduated to 20 per cent, and I think gentlemen who represent the railroads and the unions have agreed upon some tentative proposition.

Mr. DENISON. Does the gentleman think that the demand for a decided increase of wages that was made at the time had anything to do with precipitating the action of taking over the railroads?

Mr. DEWALT. I do not think it had a particle of effect. I do not think it was a moving consideration in the minds of either the Executive or his advisers. It is a clear business proposition, and that is all this is, coupled with a legal liability that a party always has when he takes private property for himself, or when the Government takes private property for public use. That is the legal proposition, and it is a business proposition as well. The only question, in my judgment, that there is before this House at this time which is of great moment is how we can best determine what the remuneration shall be, taken in connection with the other things that are concerned with that vital question. If this is so, then let us proceed in the limited time I have to a discussion of the provisions of this bill.

When I spoke of the pay of the railroad companies for the use of their lines I stated in the same breath this legal proposition that when they were deprived, even for a moment, of their property rights, they are entitled to compensation. Whether the time be 1 year or 10 years, the primal question is, What shall be paid?

In this bill the committee has provided for what is known as the standard return. What is the standard return? The standard return can perhaps be best defined by giving you what I have tried to get out of the act itself. It is the annual average railway operating income, including income of lines acquired by lease of or connected with the carrier, between July 1, 1914, and December 31, 1917, for the three years ending June 30, 1917; and the rate per cent to be fixed by the President upon the cost of any additions or betterments, less retirements or road extensions, made during the six months ending December 31, 1917. Now that is the standard return as laid down by this act.

What does it amount to in figures? The net operating income of the roads in class 1—and that includes all the roads whose income was over \$1,000,000 a year—was \$1,020,800,000. That was for 1917. In 1916 the net income of these roads in class 1 was \$984,872,959. In 1915, which was what the railroad companies called the lean year, the net income was \$683,104,833.

Add these three amounts together and you have \$2,688,777,792, and dividing that by 3 you have \$896,254,264, which is the average net operating income for these three years for this class 1 railroad, to wit, the railroads whose annual income was over \$1,000,000 a year. But there were other railroads that were not of class 1, namely, railroads that did not earn \$1,000,000 a year.

Mr. BORLAND. Mr. Chairman, will the gentleman yield?

Mr. DEWALT. Yes.

Mr. BORLAND. How much of the total mileage of the country is included in class 1?

Mr. DEWALT. I am not able to give the gentleman that. The total mileage operated in 1917 on all of the railroads was about 230,000 miles. The total in 1916 was 237,000 miles, in round numbers. I can give the gentleman that exactly, if he will wait a moment.

Mr. BORLAND. I know the total mileage of the country is approximately 250,000 miles, but I was wondering how much of it was included in class 1.

Mr. DEWALT. Perhaps another way of answering the gentleman's question is this: Class 1 earned and received about 96

per cent of the total income of all of the roads, but as to the mileage I can not give you the exact figures.

Mr. CRISP. Would the gentleman mind giving us the per cent that the roads in class 1 earned, or has the gentleman reduced that to percentages?

Mr. DEWALT. That differs so variously and so radically that one could not estimate that; but if this figure were to be divided by the property valuation used in operation by all the roads in class 1, it would give them an average percentage of about 5.6 on their property.

Mr. BANKHEAD. Is that based upon the amount of capital actually invested?

Mr. DEWALT. Yes; their operating property. As I tried to say before the interruption, this figure of \$896,000,000, in round numbers, did not include the average operating income of these roads that were not in class 1, and the Interstate Commerce Commission and others who were advising with the framers of this bill included a sum for them which made the total about \$935,000,000, which is a basis of payment if this agreement is carried into effect by the President of the United States.

Mr. CONNALLY of Texas. How does the percentage for those three years compare with the percentage for the years immediately preceding, say, 1913, 1912, and 1911?

Mr. DEWALT. In some of the years preceding 1912 the gross earnings were larger, though not larger than 1917, because that was the banner year. Nineteen hundred and nine was a lean year, if I recollect; 1912 was a lean year, as the railroad men call it, and the scale of gradation runs up and down, best illustrated by a map that was presented to the committee itself, showing that in some years whilst the gross receipts were enhanced the net income did not materially increase, by reason of the greater expense in operation and the greater cost for material.

Mr. SWITZER. Will the gentleman state about what per cent of this net income finally went to the pockets of the stockholders?

Mr. DEWALT. I can tell that pretty nearly.

Mr. SWITZER. Not all of it, as I understand it?

Mr. DEWALT. Oh, no. The gross earnings of these roads were \$3,824,419,739. The operating expenses, and this will give the gentleman a clue to what he desires to know, were \$2,581,838,511, leaving a net, after the payment of taxes, which amounted to \$1,723,830,714, of \$1,069,750,514, which was for the payment of dividends and for the payment of the interest on the bonds. When the gentleman asked me the question how much went into the pockets of the stockholders and the bondholders, not being fortunate enough to own any stock or bonds of railroad companies, I really can not answer the question.

Mr. SWITZER. Is it not true that a great part of this went back into betterments?

Mr. DEWALT. Some part of it did.

Mr. ESCAL. Mr. Chairman, if the gentleman will permit, this may throw a little light on the question asked by the gentleman from Ohio [Mr. SWITZER]: The bonded indebtedness of the carriers is \$10,000,000,000, on which was paid \$450,000,000, with interest. The amount paid in dividends was from \$250,000,000 to \$300,000,000, and that would leave a balance of possibly \$150,000,000 or \$200,000,000 for surplus, fixed betterments, and so on.

Mr. SWITZER. About one-fourth, then?

Mr. DEWALT. Mr. Chairman, I desire to hurry on, as I have promised, as well as I may, to touch one other question which some gentleman asked me here on the left. Before we get to that, however, how do we ascertain this standard return? The standard return is ascertained, according to the provisions of the bill, by taking the debits and credits arising from the accounts in the monthly reports to the Interstate Commerce Commission. That is the basis, including equipment rents and joint facility rents, and then the standard return also includes the cost of additions and betterments, railroad extensions, and they are to be ascertained by the Interstate Commerce Commission from reports, books, and other data of the carriers, and these are to be certified to the President. What is the result? The result is this, that after you have fixed a basis for the standard return as outlined in one of the provisions of section 1, you determine almost in the same breath how that ascertainment shall be arrived at, and how is it? Not by the railroad companies themselves, not by the President, if you please, not by the Director General, but by the Interstate Commerce Commission from their reports which have been submitted to them by the railroad companies, and which they have supervised, and which, they have ratified. So that there can be no question either about the validity of the ascertainment nor about the justice of the ascertainment, provided always you agree with me in saying that the Interstate

Commerce Commission is a body which is reasonable and just and loyal and conservative of the Government's interests. Now, this certificate as furnished by the Interstate Commerce Commission shall be conclusive as to the amount for the purposes of this agreement.

This same section 1—and I am hurrying along—provides further that Federal taxes under the act of October 3, 1917, assessed for the time beginning January 1, 1918, shall be paid by the carrier or charged against the sum known as the standard return, and other taxes shall be paid out of the revenue derived from the railway operations whilst under Federal control. All taxes before January 1, 1918, shall be paid out of the carrier's funds or charged against the standard returns and deducted therefrom. In other words, the Government will pay the tax whilst it is operating the roads, but the railroad companies will pay the taxes which ought to have been paid or which were assessed against them prior to the date specified and that I have just mentioned.

Mr. LENROOT. Will the gentleman yield?

Mr. DEWALT. I will.

Mr. LENROOT. Is there any provision in the bill in reference to taking care of these taxes except in cases where an agreement is made with the railroad?

Mr. DEWALT. Yes, sir; there is.

Mr. LENROOT. Will the gentleman point it out?

Mr. DEWALT. I will come to that in a few moments. We then follow in this section 1 a stipulation as to maintenance. Everyone knows who is engaged at all with railroad legislation or with railroad operation, or even though he be but a mere traveler upon a railroad, that there must be betterments for maintenance, there must be extensions, there must be repairs, there must be, if you please, the acquirement of new motive power and new cars.

So this section 1 provides that maintenance, repairs, renewals, depreciation shall be considered so that the carriers' property may be returned. How? That the carriers' property may be returned to the owners thereof when this period of Government control is ended substantially in the same condition as when it was taken from them. Certainly no more equitable provision can be had than that. If I take the property of John Jones by right of eminent domain, if you please—but that is not quite a relevant comparison—but if I take the property of an individual for a certain time, with a promise to return it to him, I should return it in the same condition that I obtained it, or I should pay for the depreciation in the value thereof by reason of my use. Therefore, this provision of the bill provides that in regard to maintenance and betterments they shall be substantially replaced to the road in the same condition as it was at the time the Government took the control. Now, further than that, section 1 provides only one important feature, and that is as to nonoperating roads or those in the hands of receivers, and there the President may make such agreements with such corporations as are equitable.

Now, what do we mean by "nonoperating roads"? There were certain roads which were not entirely completed. There were certain roads which were in process, if you please, of stabilization and required betterments, and therefore were not able to operate as going concerns. There were other roads in the hands of receivers, and it was deemed best by the authorities who drew the bill, and also by the committee itself to place in the bill some stipulation to meet that emergency and that condition, and that is met by saying that as to those particular roads the President may make such an agreement as to him seems equitable under the supervision of the Director General of Railroads. Now, that condition contemplates something which is also of very great moment. This lays out the general plan of how the standard return shall be established; it lays out the constituent parts that go into the standard return. It specifies, if you please, that the Interstate Commerce Commission by the reports submitted to it by the railroad companies shall effectually and eventually determine what the rates have been and upon which this standard return is based, and all this contemplates something which is not fully explained unless I say something else to you. What is that? It contemplates an agreement between the railroad companies and the President of the United States. In other words, after the standard return is fixed by this process that I have tried to demonstrate to you, then the President goes to the carrier company and says, "Here is the standard return, fixed according to the reports that you have made to the Interstate Commerce Commission, graduated according to the process that is named in this bill. I offer to you an agreement now that we will pay to you this sum. I can not pay you in excess thereof, but I will pay you that as a maximum amount and I want you to agree with me, as I have taken over the road."

Mr. STEELE. Will the gentleman yield?

Mr. DEWALT. I will.

Mr. STEELE. As I understand the bill, there are two methods of compensation provided. One is the judicial proceeding where the parties can not agree, and the other where they do agree. Now, does the method of the agreement provided here for compensation conform with the legal measure of damages?

Mr. DEWALT. It does, sir. In answer to that let me say this, that in every legal proceeding—as the gentleman knows far better than I do, as I concede to him greater ability as a lawyer than I have ever claimed—as the gentleman well knows, and every other Member knows, the legal standard for the assessment of damages is this: What was the property worth at the time of the taking? That is the general broad proposition. Now, when we come down to pay damages for the use of property, then we have the same standard. What was the use worth at the time of taking? And therefore it follows as a logical conclusion of the answer to the gentleman's question that the legal standard of payment would be what was its use worth at the time, and that is to be determined, how? Why, by what it actually brought in; what it earned.

Mr. TOWNER. Will the gentleman yield?

Mr. DEWALT. Certainly.

Mr. TOWNER. I am going to ask the gentleman this question: Of course, we all agree that the rule established by the courts is when property is taken the value of it must be established at the time when it is taken. When we take over the use the gentleman says that is also to be established at the time of the taking. Is not that, however, subject to this modification, when you come to consider the question of use it must extend over a period of time, and for that reason there is no other standard except we shall take in the preceding years or months or days, or whatever may be proper for the purpose of determining what period of time the use is?

Mr. DEWALT. Certainly.

Mr. TOWNER. So it is hardly strictly true. I will ask the gentleman, to say that we determine the use of the property as of the time of the taking.

Mr. DEWALT. No; but my dear sir, if the gentleman will take in connection that which I have just stated in reference to the establishment of the standard return, he will notice at once that the bill contemplates the taking in the receipts for three years and out of them making an average.

Mr. TOWNER. Yes. We say to the railroads under the terms of this bill: We are willing to determine its use by this standard which we offer you. Now, you have the right to take it or refuse it—

Mr. DEWALT. I am going to come to that in a moment. I will now yield to the gentleman from Iowa [Mr. DOWELL].

Mr. DOWELL. I take it from the gentleman's argument that some of these roads are not receiving the same income that others are receiving.

Mr. DEWALT. That is certainly so.

Mr. DOWELL. There are two methods that are adopted: One is by agreement and the other a remedy in the courts. Is it not true that the roads receiving the large incomes under this provision will accept the agreement and those receiving a less sum will refuse the agreement and obtain theirs through the courts?

Mr. DEWALT. Well, in answer to that, I would say to the gentleman that there is nothing more dangerous in the world than prophecy. I have never yet been able to prophesy as to what I myself would do on the morrow, and I can not tell what they would do the next day.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. DEWALT. May I have 15 minutes' additional time?

Mr. SIMS. I yield 15 minutes more to the gentleman.

Mr. DEWALT. I am sorry, gentlemen, if I have wearied you, and I apologize for taking all of the time that I have taken.

I proceed now, gentlemen, to section 3 of this bill, which provides that in case the President of the United States and the carriers are not able to agree, then what follows? The scheme is carried out. First, we try to agree with the carrier companies. The reason for that is that we desire by this bill to prevent litigation, and certainly nothing could be more desirable at this time than to prevent and forestall, if you please, litigation. And so every means is to be used by the executive authority to arrive at this agreement.

But suppose the carrier company says, "We will not agree," or suppose the President says that the demands are excessive according to the circumstances, or the standard return, if you please, in regard to this one particular road is excessive at this particular time; and the parties to this agreement do not agree?

In other words, they agree to disagree. Then what follows? The bill then provides that three referees shall be chosen. Chosen by whom? Not by the President; chosen not by the carrier companies, but chosen by an impartial body, namely, the Interstate Commerce Commission. And these three men then shall determine the rights of these contending parties. The bill also provides that any member of the Interstate Commerce Commission may serve as a referee or that anyone connected in official capacity with the Interstate Commerce Commission also shall have the right to serve if chosen. If then the reference is made, which is compulsory, of course, and the parties do not agree, what follows? Still the rights of the corporation are preserved, and still the rights of the Government are preserved. How? By referring the matter for final adjudication to the Court of Claims. That is the last resort; but the whole design of this bill—the whole desire, as expressed throughout the bill—is to prevent as much litigation as possible, and to keep these railroad companies and the executive authority of the United States, and the Government itself, in such a position that litigation will not be necessary. I need not emphasize the importance of that, gentlemen. It is apparent to the mind of everyone who knows anything at all about the subject. Litigation—unprovoked, perhaps, in some instances; provoked in other instances—might possibly lead to the disruption of the transportation systems on the one hand or financial disaster on the other.

I pass over section 4 and section 5, although I have them noted here and would like to discuss them, and come down to the question of what is known as the revolving fund, which is section 6.

This bill provides that \$500,000,000, not otherwise appropriated, shall be appropriated for the purpose—of what? The expression is very clear in the bill. The revolving fund of \$500,000,000 is for operating expenses, and with the revenue derived from the operation of the road shall be used—for what? For just compensation of the railroads under control, or terminals, motive power, cars, equipment, and so forth. And the President may do what else? The President may order the road to make betterments and road extensions, and so forth, for road purposes, and may advance the cost thereof from the revolving fund for such betterments and extensions, and charge the same up against the carrier.

Now, I have heard some gentlemen in committee, as well as out of it, say, "Oh, well, this will inevitably lead to this, that the railroads will receive these betterments, receive these extensions, will receive these large improvements, at the expense of the Government, and then when the railroads are turned over they will have the benefits thereof without payment to the Government." No more ridiculous statement was ever made by anyone in regard to the provisions of a bill if he reads and syllabizes the bill itself. Because the revolving fund is specified at \$500,000,000, and the revenue derived from the operation of the roads by the Government shall be taken for the purpose specified, to wit, for betterments and improvements, and for the payment of a just compensation to the roads, and, more than that, the President can order and direct that these betterments and improvements shall be made and charged up against the standard return.

I pass now to the question that was asked me in reference to the short-line railroad by the gentleman from Missouri [Mr. RUSSELL]. And permit me to say that I believe that portion of the controversy is no longer one that need agitate the minds of those who are interested in short-line railroads. Section 9, referring to this matter, is as follows:

That nothing in this act shall be construed to affect the routing instructions—

And I emphasize "routing instructions"—

over, and the traffic arrangements—

Emphasizing again, "traffic arrangements"—

of such railroads as may not be taken under Federal control by the President unless such arrangements and instructions prejudice—

What? Here are the two exceptions—

the transportation of war materials or of Government supplies; in which cases—

And only in which cases, according to the provisions of this section—

the President may change the routing of such materials and supplies as the war and national interests demand.

And certainly that is a wise and patriotic provision.

And now, further:

If the President should deem it necessary temporarily to suspend such arrangements and instructions as to freight other than war materials and Government supplies he may thereafter, so far as practicable, cause to be diverted—

What?—

sufficient unroute freight to such road as will compensate it in revenue for such temporary suspension.

Mr. RUSSELL. Now, that is the best provision that has been made there that is possible under the circumstances, and that is when the road is not taken over; but you notice that the section reads that the President may, as far as practicable, re-route other freights that might make up the loss to that road. But the mere fact that that may not be done, as I am informed, has already tended to reduce the value of stocks and bonds of some of these smaller lines, very much to their injury, I am informed, and they fear may result in driving them into the hands of receivers and into bankruptcy.

Does not the gentleman appreciate that there is a possibility of very great injury being done to those smaller lines if they are not taken over?

Mr. DEWALT. I do. One gentleman who appeared before the committee was president of one of the so-called short lines and the receiver of another; I think he came from Pittsburgh. His name I have forgotten. But he emphasized to the committee this important fact, saying in substance: "I am speaking for these short-line roads, in which I am interested, and there are others who take the same view. I, speaking for them, desire only two things: First, that their traffic arrangements, as now provided for by the Interstate Commerce Commission, shall remain practically as they are, to wit, that we shall be entitled to a proportionate rate for the service we have rendered; and secondly, that if there be freight diverted from our lines as feeder lines to trunk lines, we receive such rate in return, if it is possible to give it to us; and third"—which I do not think has been mentioned in the argument at all by anybody who has asked me a question—"that motive power and transportation facilities be given us as heretofore."

That is all they seem to be interested in, and it was with that view that this provision was drawn. And it was drawn, I believe—although I am not authorized to say so positively—by gentlemen who are interested in the short lines. I appreciate fully that these short lines are built, capitalized, and owned largely by local stockholders in the localities in which they are constructed.

Mr. RUSSELL. I understand, if the gentleman pleases, that there are about 800 of these short lines in the country?

Mr. DEWALT. I so understand.

Mr. RUSSELL. Several of them are in my district, built by the local people. As this great harm will come to them, I wondered why that situation should not be remedied so as to include them.

Mr. DEWALT. The only remedy, in my judgment, would be to take them all over; and there, I fear, the remedy would be worse than the evil.

Mr. LENROOT. Mr. Chairman, will the gentleman yield there?

Mr. DEWALT. Yes.

Mr. LENROOT. The language is, "That nothing in this act shall be construed so as to affect the routing instructions over and the traffic arrangements of such railroads as may not be taken under Federal control by the President." and so forth. I want to ask is there any other language but that which would affect those traffic arrangements? And, if it does not, does it not leave this language meaningless?

Mr. DEWALT. Oh, no; there is something in this act that might possibly lead to a different conclusion.

Mr. LENROOT. What?

Mr. DEWALT. There is a provision in the act itself to the effect that the President of his own initiative may route freight.

Mr. LENROOT. There is nothing about traffic arrangements.

Mr. DEWALT. Routing freight is traffic arrangements. I believe that provision is in the bill.

Mr. WATSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. DEWALT. Certainly.

Mr. WATSON of Pennsylvania. I want to give a practical illustration of a road which I know something about, it being a short-line road. A member of the Interstate Commerce Commission recommended that the Government should operate the road. The Secretary of the Treasury made the reply that "We have no money to operate small roads, and the President can deal with it as he deems wise." I therefore take it that the Government will not have anything to do with small roads. Am I correct in that?

Mr. DEWALT. I would not go quite as far as that, sir. I should think that the Government would have something to do with short-line railroads, and I appreciate very much the suggestion made by the gentleman from Missouri, Judge RUSSELL.

Mr. WATSON of Pennsylvania. But Mr. McAdoo said not.

Mr. DEWALT. Mr. McAdoo illustrated it by saying:

We are calling into the draft service of the United States at this time those who are most efficient for service in the war. We want fighters, and we do not want cripples. Therefore I say to the railroads generally, "We want railroads that we can use, and we do not want railroads that we can not use."

Mr. WATSON of Pennsylvania. Then the small railroads must suffer?

Mr. DEWALT. Oh, no. That does not follow at all, because by the provisions of this bill I maintain, and they themselves maintain, that they are taken care of as far as possible.

Mr. LAZARO. Mr. Chairman, will the gentleman yield?

Mr. DEWALT. Certainly.

Mr. LAZARO. On day before yesterday the gentleman from Alabama [Mr. BURNETT] asked the chairman of the committee this question—it is short:

Mr. BURNETT. As I understand from your bill, you give this power to the President? That is, he may exercise it in regard to rates on railroads that are entirely inside of the border of a State, where the freight is entirely intrastate freight. Would not that absolutely, by this kind of legislation, destroy the power of the State railway commissions to fix intrastate rates on intrastate railroads, and so forth?

I would like to have the gentleman's opinion of that.

Mr. DEWALT. That raises a very important question. Some of these lines will not be taken over, and perhaps a number of them that are not small roads. So far as those roads are concerned that have to do with interstate commerce, they will certainly be governed by the Interstate Commerce Commission itself. You grant me that, do you not?

Mr. LAZARO. Yes.

Mr. DEWALT. The roads that are engaged entirely in intrastate business will, of course, be covered by the State commissions. But permit me to say that upon investigation it has been determined, at least it was so affirmed before the committee, that there were only three or four railroads in the United States that are exclusively devoted to intrastate traffic, and the reason for that is this: That if there be a car upon a road that carries any freight from Ohio to Pennsylvania or from one State through another, it is interstate traffic, and therefore if it gets on that line, it is interstate traffic.

I beg your pardon, gentlemen, for taking up so much time. [Applause.]

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. DEWALT. I ask unanimous consent, Mr. Chairman, to extend and revise my remarks.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SIMS. Mr. Chairman, will the gentleman from Wisconsin [Mr. ESCH] now use some time?

Mr. ESCH. Mr. Chairman, I come to the consideration of this question with a good deal of misgiving, owing to the importance of it and the complexity of the problem presented.

The committee, after five weeks of hearings and arguments, reports out this bill for consideration. It meets with the general approval of the committee, with possibly two or three major exceptions. No doubt some of the sections of the bill to which no attention has been directed in general debate ought to be amended in order to more clearly express the purpose of the bill and to make it more workable and more effective.

I am one of those who believe that we should have taken over control of the carriers even sooner than we did. As was stated by the gentleman [Mr. DEWALT] who just preceded me so clearly and so logically, the President took control over the roads under the act of August 29, 1916. That act was purely a war measure and gave to the President war powers. Of course, from the day of its enactment the President might have taken over the roads; but we were not at war and there was really no necessity for the President to take them over until we ourselves became involved in the struggle.

Even at that time, on the 6th of April, there were many notes of warning that the administration might well have heeded, and that would have justified the taking over of the roads. The carriers themselves realized the necessity of prompt and united action, for on the 11th day of April, five days after war was declared, their chief executives met and passed a resolution, declaring, among other things, that "during the present war they would coordinate their operations in a continental railway system, to produce a maximum of national transportation efficiency."

A committee was appointed to carry out the object of the resolution, but effective powers were not given to it. It did not create that continental system that the needs of the country required and that the war-traffic conditions made necessary. It did much, and I here willingly grant them all need of praise for what they did accomplish in inducing shippers to load and un-

load their freight speedily, in inducing them to increase the car loading, and in adopting plans and policies which resulted in expediting traffic. But there was still no real continental system of control, no directing of all energies to one common purpose—the winning of the war. No committee with full powers to pool equipments was appointed until November 24, last, more than seven months after war began.

On the 17th day of November Mr. Anderson, one of the Interstate Commerce Commissioners, was requested to consider the framing of a bill for the taking over of the roads. Doubtless information of such proposed action may have come to the railroad executives. They met on the 24th, a week later, created a committee of vice presidents, sent them to Pittsburgh, and gave them, so far as they could do it, full powers of pooling equipments for the handling of all freight east of Chicago. This indicates to my mind that the railroad executives had begun to realize that there were still greater burdens for them to carry, and that greater sacrifices of the individual interests of their respective roads must be made, to the end that through complete unification and cooperation Government possession and control alone might be averted.

One week after this committee met at Pittsburgh, on the 1st day of December, the Interstate Commerce Commission sent to Congress its special report, in which two alternatives were presented: First, that there might be a repeal of all prohibitory statutes, such as section 6 of the interstate commerce act prohibiting pooling and the antitrust acts against combinations; or, second, that the Government should take control and possession of the roads under the act of August 29, 1916. On the 28th of December the President, adopting the alternative of Government control and possession, issued his proclamation taking over the roads. When this proclamation was issued a duty devolved upon Congress immediately to provide compensation for the roads taken over. As Judge DEWALT, the gentleman from Pennsylvania, has already explained, the act of 1916 contained no provision for compensation, and the Government under the Constitution could not take over this or any other property without just compensation. This bill makes provision for compensation for the carriers that are taken over. Section 1 of the bill relates entirely to the amount of the compensation and the plan by which it is to be ascertained. Before our committee several plans of compensation were presented by various witnesses. One plan suggested was that compensation should be based upon the value of the roads as disclosed by the market prices obtained for their stocks. The committee did not consider that the market value of the stocks of the carriers was a stable or just standard of the value of the properties, because stocks were subject to fluctuations, largely because of speculation therein, and that increases in market values of stocks did not reflect always increases in the property valuation.

Mr. Kruttschnitt, of the Southern Pacific, cited this instance in demonstration of the truth of the statement I have just made, that 10 years ago the stock of the Southern Pacific sold at 130, while on the day on which he testified it sold for 75, and that, too, notwithstanding the fact that during that 10-year period the road had put into its property \$400,000,000, so that its property or investment value had increased 50 per cent in the 10 years, while its stock had depreciated 42 per cent. The committee did not believe the market value of stocks to be a fair or just basis for the fixing of compensation under this bill.

Another plan was suggested by Mr. Plumb, the representative of the railroad brotherhoods. Under it the carriers were to receive the standard return as provided in the bill, but that the Interstate Commerce Commission should proceed, as soon as possible, to ascertain the true value of the railroads of the United States, and that when determined the compensation should be fixed at a certain percentage of the valuation so found. The objection made to this plan of compensation lies in the fact that the physical valuation of railroad properties can not be completed until 1921. Judge Prouty, the director of valuation of the Interstate Commerce Commission, appeared before us and so stated. That being the case, the final valuation upon which the percentage was to be based would be deferred for a period of three years, and the war may be ended by that time.

Another basis of compensation was presented by myself, through an amendment offered in the committee. The amendment is as follows:

Provided, however, That the standard return to any such carrier whose average rate of net income to capital stock for the years aforesaid has been more than 5 per cent shall not exceed the net railway operating income for the year 1917, after deducting therefrom the amount available out of earnings for investment and surplus: *Provided, however,* That this further limitation shall not reduce the net income (above all operating expenses, taxes, interest, and all other fixed charges) of any such carrier below what is required to meet the regular dividend accruals on all capital stock outstanding December 31, 1917. The surplus over and above the aforesaid standard return shall be

divided as follows: One-half shall go to the company earning such surplus, and the balance shall be paid into the revolving fund created by this act. All of said surplus and all property constructed out of or purchased by the same shall belong to, and shall be held in trust for, the public, and no return to any railway company or its assigns shall ever be paid thereon.

In my opinion there is nothing in this bill that will be a sufficient incentive for the carrier to promote the highest output in transportation. The carrier under the general guarantee herein provided does not care whether his road carries 10 or 15 per cent more traffic this year than it did in the years when it was under private management, because it is assured its standard return, based on the operations for the three preceding years. Its officials might say, "Why, the less traffic our road handles, the less wear and tear there will be upon its rolling stock and tracks." If we can give to the carrier a portion of the surplus, we will give the prod to efficiency. One fear I have as to the bill as we now have it is that there will not be that incentive to efficiency which is so necessary for the successful operation of the roads in war time.

Mr. GORDON. Mr. Chairman, will it interrupt the gentleman if I ask him a question?

Mr. ESCH. No; go ahead.

Mr. GORDON. The gentleman has called attention to the fact that the market value of the stock of the Southern Pacific had dropped from 130 to 75, notwithstanding the fact that they had invested \$400,000,000 in the road. But did he say anything about the amount of stock and bonds that had been issued in the meantime?

Mr. ESCH. No; he made no statement of that kind.

Mr. GORDON. Would not that be a material factor affecting the price of the stock per share?

Mr. ESCH. As I recollect, the Southern Pacific reorganization occurred some years ago and there has been very little addition to the capital stock. So the purpose for which he cited the figures would be pertinent.

Mr. GORDON. If there had been an abnormal issue of stock, did the committee obtain information as to the extent of the increase of stock when there has been no extension of the line?

Mr. ESCH. There are tables printed in the hearings giving capitalization year by year for the last 10 or 15 years.

Mr. ALEXANDER. Did he state the earnings during these corresponding years?

Mr. ESCH. The earnings increased, but the expenditures increased at a more rapid rate. I may say that that has been the experience of many roads.

Mr. RAMSEYER. Will the gentleman yield?

Mr. ESCH. I will.

Mr. RAMSEYER. The gentleman used the term in explaining his proposed guaranty "regular dividends" of the road. What does the gentleman mean by "regular dividends"? Over what period would he continue them?

Mr. ESCH. Over the period of three years, the same we are using in the bill itself.

Mr. RAMSEYER. Would not that mean the same as the bill provides for?

Mr. ESCH. Yes. The gentleman from Pennsylvania, who preceded me, gave the result in dollars and cents of the operation of the bill by applying to carriers the standard return therein provided. It is not my purpose to duplicate the figures that he gave. I make the average for the three years on the roads of class 1, \$896,000,000, in round numbers. If we add the operating income for class 2 and 3 roads, we will make a total of \$935,000,000.

The bill, as you will notice, provides that in addition to the standard return for the three years prior to June 30, 1917, there should be added a percentage—the rate to be determined by the President—on the cost of additions, betterments, and road extensions made during the six months ending December 31 last. That cost was \$130,000,000, and 5 per cent thereon would amount to six and a half million dollars, which, added to the \$935,000,000, would make a maximum guaranty of \$941,500,000 for which the Government would be obligated.

Out of this sum the carriers must pay their excess-profits tax, estimated all the way from \$50,000,000 to \$60,000,000. Even with this deducted there would still be about \$900,000,000 which the Government would have to stand for in carrying out section 1 of this bill, to apply on interest and dividends. There are \$10,000,000,000 of bonded indebtedness of the carriers of the United States. That represents about \$450,000,000 of interest that, deducted from the \$900,000,000 of the guaranty, would leave about \$450,000,000 for dividend purposes. Four hundred and fifty million dollars on the capitalization of the roads as of last year—\$7,000,000,000—would represent something like 7 per cent. If we take the whole capitalization of stocks and bonds,

then this guaranty would represent on the capitalization about 5.63 per cent and upon the book value only 5.19 per cent.

Mr. HARDY. Will the gentleman yield for a question?

Mr. ESCH. I will.

Mr. HARDY. In ascertaining that percentage of income on the stocks and bonds, did not the gentleman omit from the estimate the fact that these bonds had been allowed \$450,000,000 on the income?

Mr. ESCH. Oh, yes. The amount of the return provided by this bill applied to the total capitalization would represent 5.63 per cent.

Mr. SWITZER. Will the gentleman yield?

Mr. ESCH. I will yield to the gentleman.

Mr. SWITZER. The gentleman does not mean that that is actually paid out?

Mr. ESCH. No; dividends may be earned but not always declared. A large share of the surplus may be used for dividends or be used for additions, betterments, or road extensions.

Mr. SWITZER. Does the gentleman know what part of this is for that purpose?

Mr. ESCH. No; I can not state.

Mr. SNOOK. Will the gentleman yield?

Mr. ESCH. I will yield to my colleague.

Mr. SNOOK. The gentleman has made a statement about the value of stocks and bonds of these roads, and also the value of the capital. I believe he stated that the capital issued was about \$7,000,000,000. He would not say that that came anywhere near, in his opinion, representing the value of the money invested in the roads?

Mr. ESCH. Not at all; and I did not so state.

Mr. SNOOK. I call my colleague's attention to that because a speech made by some gentleman here left the impression that this standard return provided for in section 1 of the bill would yield an income on the money invested of over 8 per cent to the railroads. That would not be so, would it?

Mr. ESCH. It depends on how you figure that.

Mr. SNOOK. If the value of the roads is anything like what it is believed to be.

Mr. ESCH. If you take the total valuation, it could not be 8 per cent.

Mr. SNYDER. Will the gentleman yield?

Mr. ESCH. I will.

Mr. SNYDER. The gentleman stated a moment ago that the Government would have to stand for \$900,000,000 guaranty. Of course, it is contemplated that under the Government management the roads will earn at least as much as they earned heretofore; and if they do, the Government will not have to stand for anything, will it? The roads will earn the money and ought to be entitled to the same compensation that they have had heretofore.

Mr. ESCH. By "standing for it" I meant that that was the guaranty. The roads are doing the business as they have heretofore, and the amount of money they take in is being disbursed currently, as if there had been no Federal control.

Mr. SNYDER. If they do earn the same as they earned heretofore—

Mr. ESCH. The Government will not be out, but I have not such confidence that that will be the result. I am very fearful that under Government control there will be an increase of wages, and in fact the wage board is now considering that very question. There will be an increase in the cost of materials, and when you add those increases of cost I expect to see the Government's liability increase. On the other hand, economies are prophesied under Federal control, because competition will be eliminated.

Mr. CARTER of Oklahoma. May it not also be said that there will be an increase in rates to compensate for these things the gentleman is speaking about?

Mr. ESCH. If the bill remains as it is now written, with the power claimed by the Director General to make and initiate rates, I feel confident that there will be increases of rates, and the trouble with that provision of the bill making the Government a guarantor of the standard return is that the Government would be induced to increase the rates to lessen its liability under its guaranty.

Mr. LONDON. Mr. Chairman, will the gentleman yield?

Mr. ESCH. Yes.

Mr. LONDON. Is there any available information as to the number of stockholders and the character of their holdings?

Mr. ESCH. Some information was given as to that, and, as I recollect the figures, there are about 600,000 stockholders in the United States.

Mr. LONDON. How is the stock distributed among them?

Mr. ESCH. The holdings, on the average, are very small.

Mr. SIMS. Dividing the whole volume by the whole number of stockholders the average holding is thirteen thousand and odd dollars.

Mr. ESCH. That would imply that there are some holders that have very large blocks of stock, if the average is \$13,000.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. ESCH. Yes.

Mr. AYRES. The gentleman made a statement that he thought it would be an inducement for the Government to raise the rate for the purpose of—

Mr. ESCH. Lessening its liability under the guaranty.

Mr. AYRES. Is it not a fact that the railroads for months and months have been carrying on a propaganda creating a sentiment also to have the rates raised many hundreds of thousands of dollars?

Mr. ESCH. Not only a propaganda, but actual cases before the commission, known as the 15 per cent advance rate cases, which were heard last March and April, and as to which a finding was made in June allowing a 5 per cent increase on certain traffic in eastern classification territory and allowing an increase of 15 per cent on coke, coal, and iron, and those hearings were reopened last October because of the changed condition of the financial returns on the part of the carriers, but the commission made no final determination as to the hearings had in October.

Mr. SMITH of Michigan. Is it not true that since the war the earnings of the railroads have been abnormally high, due to the increased business and the traffic?

Mr. ESCH. Yes; I think that can be very safely stated.

Mr. PLATT. President Hadley, of Yale, I think, in his book on railroad transportation, says practically that the railroad corporation is a corporation of the small investor. Would the gentleman say that that is practically true?

Mr. ESCH. No; I think not. Only a few men and a few powerful financial institutions, mainly banks and trust companies, have the destinies of the railroads of the United States in their hands.

Mr. PLATT. But when these men die we usually find that they have only a very few shares and that they have their control through proxies.

Mr. ESCH. That is the trouble with the railroad situation to-day, that they are controlled by men who are directors and, in many instances, have holdings of only from one to five shares of stock, sufficient to qualify as directors; and it is one of the weak spots in the management of the carriers that they are controlled by men who have not a direct and a very vital financial interest in the property that they are trying to carry on.

Mr. MOORE of Pennsylvania. May I say to the gentleman that recent statistics published by the Pennsylvania Railroad Co. show that they have over 100,000 stockholders?

Mr. ESCH. Yes. Does the gentleman know the average amount of the holdings?

Mr. MOORE of Pennsylvania. I do not; but the point is made of the fact that those 100,000 stockholders are made up largely of women.

Mr. ESCH. There was a statement made before our committee to the effect that so many women and children held these railroad securities—

Mr. GORDON. And orphans.

Mr. ESCH. And orphans, that there ought to be special consideration given to them, and that safeguards should be thrown around their holdings. Mr. Plumb presented, however, a table showing the proportion of total stock held by 10 leading stockholders in principal railway systems in 1915. The table is as follows:

Proportion of total stock held by 10 leading stockholders in principal railway systems, 1915.

Name of road.	Total stock outstanding.	Stock held by 10 leading stockholders.	Per cent.
Pennsylvania R. R.	\$506,457,848	\$27,327,000	5.40
Baltimore & Ohio	210,811,885	45,923,100	21.78
New York Central	247,533,514	69,967,700	28.03
New Haven	157,117,300	21,386,500	13.61
Philadelphia & Reading	42,481,700	42,481,631	100.00
Erie	176,271,300	37,401,300	21.22
Delaware & Hudson	42,503,000	3,644,600	8.57
Delaware, Lackawanna & Western	42,291,120	13,031,300	30.83
Chesapeake & Ohio	62,786,000	12,166,900	19.38
Norfolk & Western	131,146,200	64,577,600	49.24
Western Maryland	59,428,098	37,672,100	63.39
Wabash	92,104,127	—	64.55
Lehigh Valley	60,608,000	9,935,550	16.39
Southern Railway	185,650,200	87,576,900	47.17

¹ In hands of receiver.

Proportion of total stock held by 10 leading stockholders in principal railway systems, 1915—Continued.

Name of road.	Total stock outstanding.	Stock held by 10 leading stockholders.	Per cent.
Illinois Central.....	\$109,291,717	\$38,592,600	35.31
Atlantic Coast Line.....	68,754,700	26,105,100	37.97
Seaboard Air Line.....	60,913,500	35,017,100	57.49
Denver & Rio Grande.....	87,775,670	47,498,700	54.11
Missouri, Kansas & Texas.....	76,309,857	29,447,900	38.59
Missouri Pacific.....	82,702,585	10,735,100	12.98
Chicago, Milwaukee & St. Paul.....	233,201,900	23,371,400	10.02
Chicago, Rock Island & Pacific.....	74,875,200	14,166,300	18.92
St. Louis & San Francisco.....	90,671,762
Union Pacific.....	321,835,100	50,192,800	15.60
Northern Pacific.....	247,846,000	31,038,000	12.52
Grand Trunk Western.....	6,000,000	6,000,000	100.00
Chicago, Burlington & Quincy.....	110,539,100	110,040,100	99.28
Southern Pacific.....	272,674,406	53,573,800	19.65
Great Northern.....	249,129,962	31,222,000	12.53
Chicago & North Western.....	152,509,500	24,391,400	15.99
Canadian Pacific in Maine.....	2,273,000
Atchafalpa, Topeka & Santa Fe.....	314,663,230	34,078,100	10.83

¹ In hands of receiver.

Mr. STEVENSON. Mr. Chairman, I want to ask the gentleman a question about the matter of rates. He suggested that the Government would possibly raise the rates. I notice that the bill provides that the Government shall initiate rates only on roads controlled by it?

Mr. ESCH. Yes.

Mr. STEVENSON. The Interstate Commerce Commission, as I understand it, will retain jurisdiction of the uncontrolled roads. Is that the idea?

Mr. ESCH. Yes.

Mr. STEVENSON. If the Government relinquishes control of a large number of the roads on which the Government has raised the rate, and fixes a rate on the controlled roads different from that obtaining on the uncontrolled roads, how are we going to coordinate? How is the shipper going to know, if we have two sets of rates on two different roads? When a man wants to ship on two different roads, with that condition, how will he be controlled in making his through rates?

Mr. ESCH. The gentleman can settle that situation if he will vote for amendments to be offered upon our side leaving the initiative of rates where the initiative now is.

Mr. STEELE. Mr. Chairman, will the gentleman yield?

Mr. ESCH. Yes.

Mr. STEELE. The gentleman a few moments ago referred to the act of 1916 giving the Government a right to control the railroads. Under the word "control," as contained in the act of 1916, does the gentleman think the power to establish rates is given to the President?

Mr. ESCH. I do not. I think it raises a very grave constitutional question, and in connection with that I wish to read what Senator THOMAS said last week in the Senate in regard to this very paragraph of the act of August 29, 1916, under which the President took over the roads. Senator THOMAS is the author of that paragraph of the act of 1916. Here is what he said:

I had no intention of making it so operate as to invest the President with anything more than the power to control the possession of the physical property of the railroads for war purposes.

Indicating that in his mind there was to be no power given over the rate problem. That power was to be left where it now is. The power he intended to confer was only as to the physical control over the property for war emergency.

Mr. STEELE. I think the gentleman will agree that the question is not what was in the Senator's mind at the time, but what is the proper conclusion of the language as used.

Mr. ESCH. And judging from the Senator's interpretation of his own language he, I, and the gentleman agree.

Mr. SMITH of Michigan. Will the gentleman yield—

Mr. ESCH. I will.

Mr. SMITH of Michigan. For just one more question. If the railroads have all the business they can do and all the traffic they can carry and are earning more now than they have heretofore and are not paying their dividends or making expenses, how do they expect in the future to pay this increased rate or pay the indebtedness that the Government will be put to in taking over the railroads?

Mr. GORDON. They do not expect to pay it; they expect the Government to pay it.

Mr. SMITH of Michigan. That might be true before this abnormal condition came about by which they have been doing more business than they can transact, and still they can not pay the rate.

Mr. ESCH. That condition of a surplus of business is not widespread over all the railroads of the country. There are some railroads that could do vastly more business than they are doing, but the congestion is where they are all trying to run through the neck of the bottle.

Mr. SMITH of Michigan. I am obliged to the gentleman for speaking about that congestion at the neck of the bottle. I have heard it stated that in the shipment of coal they could not get through the cities of Pittsburgh, Detroit, Chicago, and other places because of the congestion of coal on cars which they could not move at those places, while the people at those places were freezing for the need of coal, right there in those cities.

Mr. AYRES. Will the gentleman state what caused that congestion?

Mr. SMITH of Michigan. They say it was a congestion; why could not they take those cars—

Mr. AYRES. Was not the railroad company using those cars for storage for railroad purposes in many instances?

Mr. ESCH. Gentlemen, I have got to discuss two points to this bill. One relates to section 11, covering the powers of the Interstate Commerce Commission as to rates, and the other to section 14, relating to the term of control. I am firmly convinced that we will make a mistake if we leave section 11 with relation to the powers of the Interstate Commerce Commission as now written. I believe we should not change the existing law with reference to the commission. I certainly object to giving to the President the right to initiate rates, even though it be coupled with the right of making complaints before the commission, the commission to pass upon the justness or reasonableness of such rates, where the veto still remains in the President, notwithstanding the recommendation of the commission.

Where the President initiates a rate we are revolutionizing rate making as it now exists. Under the existing law the carrier files a schedule for increases with the commission, and before it is approved the commission must investigate on its own motion or upon complaint before it can be filed. The right to suspend the rate remains, but when you give to the President the right to initiate the rates they become effective at once, without opportunity for consideration or examination by the Interstate Commerce Commission. Suppose the President should initiate the rate. Suppose complaint was made and the commission found the rate to be unjust and unreasonable, and the President agreed with the commission's recommendation. There will be hundreds of people, possibly, who paid the rate that had been initiated by the President and which was found by the commission thereafter to be unjust or unreasonable. That would give rise to a vast number of claims for operation. Those shippers who paid that rate would feel that they were entitled to reimbursement, and yet, knowing that the President had initiated the rate, knowing the delays in securing reparation, they would forego their action for reparation and would suffer the loss. I do not believe, gentlemen, there should be given to one man this tremendous power. The gross earnings of the total business of the carriers of this country amount to about \$4,000,000,000 in a single year. To give to an individual the power to determine rates over such a tremendous traffic as that is a power no nation that claims to be a democracy should grant. Why, no nation that is at war to-day has given to any individual in it the power to make rates.

Mr. SIMS. Will the gentleman yield for one question?

Mr. ESCH. Yes.

Mr. SIMS. Have not we pledged in our declaration of war all our resources to the successful prosecution of the war to the President himself? Now, the gentleman is not willing to trust what he calls a tremendous power simply to initiate a rate and maintain it if he thinks it is necessary in order that the President may do that which we have authorized him to do.

Mr. ESCH. If the gentleman's contention is correct, then we should give to the President in a war emergency the power to raise money, the power to fix our customs duties, the power to fix our internal-revenue taxation, the power to fix postal rates.

There is no one here that would have the hardihood to claim that we should abrogate our functions and give to the Chief Executive such tremendous power. [Applause.]

Mr. SIMS. Another question in that connection. Do you not believe if it was necessary to win this war to give him the power to levy taxes and revenues, you would do it without hesitating?

Mr. GORDON. If you would, you would violate your oath of office. [Applause and laughter.]

Mr. PLATT. I was going to ask the gentleman if he thought the power to fix the price of transportation was any greater power than the power to fix the price of food as we did. It is not as great and no more taxation, either.

Mr. DOREMUS. Will the gentleman yield for a question?

Mr. ESCH. Yes.

Mr. DOREMUS. I was going to ask my colleague of the committee if he does not make a distinction between clothing the Executive with power to fix taxes at the customhouse and clothing him with power to fix the rates upon the railroads? In other words, would not one be a clearly unconstitutional exercise of power while the other would be within the Constitution?

Mr. ESCH. Whether constitutional or not, I do not think it would be wise to give any one man the power of fixing the rates on the traffic of the United States, for the fixing of rates is a species of taxation, and no single individual should be given that power.

Mr. DOREMUS. Does my friend question the constitutional power of Congress to delegate to the President the power to fix transportation rates?

Mr. ESCH. I think we could delegate the power. I am protesting against the unwisdom of the delegation of such power and have tried to show in the argument I have thus far presented that it might result in loss and damage to the shipping interests of the country. I do not know whether we realize what a sensitive structure the rate structure of the United States is. The change of a single cent per hundredweight may change terminal markets and bring loss to numerous industries. To give this power to a single individual, without investigation, to fix the rates, seems to me to invite disaster. We ought not to do it, because it is not necessary, gentlemen, in the successful conduct of the war to turn over the rate-making power to the Chief Executive.

Mr. MOORE of Pennsylvania. Will the gentleman clear up one point that has been troubling me? The gentleman from Pennsylvania [Mr. DEWALT] stated very likely the President would increase the wages of those employed by the railroads to the extent of 20 per cent. If the President has the power to do that, which would be a charge against the railroads, how does the gentleman explain opposition to the suggestion that if the President should fix rates, which would be a charge perhaps in favor of the railroads, he should increase the wages?

Mr. ESCH. I suppose there will be increases of wages. I can not talk advisedly on that matter.

Mr. LENROOT. Will the gentleman yield?

Mr. ESCH. Yes.

Mr. LENROOT. I would like to suggest that when under private ownership the railroads had the power of increasing rates, but the rates had to be passed upon by the Interstate Commerce Commission.

Mr. PLATT. Was not that just what was the matter?

Mr. LENROOT. No.

Mr. PLATT. It was, exactly.

Mr. ESCH. I can not yield further, as I have only 10 more minutes.

Another question was suggested by a gentleman on my right, and that is the infinite confusion that we will get into, if we give the President the right of initiating rates, arising out of the fact that there will be a large number of lines that will not be taken over. That is conceded now. There are some 800 short lines with a total capitalization of something like \$1,200,000,000. Many of these will not be taken over. There may be some large lines that will not be taken over. Then, besides that, the bill provides that the President can relinquish control over lines prior to the 1st of July next.

And there is another provision in the last section under which the President can relinquish control over any lines after he has made an agreement to this effect with such carrier. What does it all mean? It means that thousands of miles of railroad in the United States will not be under the control of the Government, and if not taken over by the Government, they can not be under the control of the Director General. Where do they go? Under whose authority are they? Who shall make the rates? Why, the Interstate Commerce Commission. Then, you will have thousands of miles of railroad in the United States that are under the Interstate Commerce Commission, which has the power to fix the rates thereon. You will have other thousands of miles of road under the Director General, and he will have the power to fix the rates, according to the contention of this bill. That, gentlemen, will bring inextricable confusion into the rate-making structure of the United States, and we do not want to invite that. No one of us wishes that, but it is inevitable if the bill remains as it is.

Mr. DEMPSEY. Will the gentleman yield?

Mr. ESCH. Yes.

Mr. DEMPSEY. Have you not always had such a conflict of authority between the State commissions and the Interstate Commerce Commission?

Mr. ESCH. Oh, but not nearly the difficulty that there would be under this new arrangement.

Mr. DEMPSEY. It exists in as many jurisdictions as there are States, does it not?

Mr. ESCH. Yes; but under the Shreveport decision those differences between the Federal Government and the States are being rapidly overcome and not added to.

Mr. STEVENSON. Will the gentleman excuse me just one further question? The confusion which I referred to awhile ago could be obviated, could it not, by striking out lines 14 and 15 on page 12, as to Federal control, so that if the President initiated rates at all it would be for all roads, and not only for those under his control? Would not that obviate the confusion? Whether it would obviate the objection or not I am not prepared to say.

Mr. ESCH. As an illustration of sudden action on the part of the individual, I wish to cite the instance of a special order of the Director General, made early in January, changing the rules as to demurrage practically overnight, and the commission merely passing on it pro forma.

By that single order the Director General, without hearing, without notice, increased the demurrage rates throughout the United States to a maximum of \$10 per day. He also abolished the average agreement and the bunching rules, to which rules the commerce and manufacturing industry of the United States had adapted itself. He did it overnight. The traffic people were not here, and did not have an opportunity to be heard.

As soon as the order became effective the traffic and industrial people of the United States brought to the attention of the Director General the injustice of his order and the hardship it was creating, and the Director General, after that rule had been in force and effect only nine days, changed it back virtually to what it was before. There ought to be a careful, calm consideration of these schedules and of these rates.

Mr. HARDY. Mr. Chairman, will the gentleman yield right there?

Mr. ESCH. Certainly.

Mr. HARDY. Was not the change back to the former rate probably induced by the fact that this higher demurrage rate had apparently, at least, accomplished its purpose in securing the unloading of the cars?

Mr. ESCH. No; that is not the reason why it was modified.

Mr. SIMS. It did not reduce the rate under the modification.

Mr. ESCH. The maximum was \$10 a day.

Mr. SIMS. That did not exist before he made his order.

Mr. ESCH. It began at \$3, according to my recollection.

Now, gentlemen, I have used my hour, and I want to close with a reference to the fourteenth section, concerning the last contention, namely, as to the time limit. I have not time to read more than this recommendation which I make with reference to it.

We believe that a period of one year or less after the proclamation of peace will be a sufficient period for the continuance of Federal control. The length of time which will elapse between an armistice and the ratification of the treaty of peace is certain to be many months. This time, added to the one-year limitation, would, in our opinion, be sufficient for Congress to pass whatever legislation might be necessary for the adjustment of the financial relations between the Government and the carriers and the enactment of whatever other legislation may be necessary. The Congress that will then be in existence will be as patriotic as this Congress and can be trusted to enact the necessary legislation. As the carriers were taken over under the war power, the tenure should be no longer than the duration of the war and a reasonable time thereafter. This Congress, fixing as it does in the pending bill the terms of agreement for just compensation, should at the same time fix the term.

In conclusion, we do not wish by this bill to hinder or embarrass the President in the slightest degree so far as operation of the carriers is concerned. We grant him fullest power in all matters of operation, in all matters of directing traffic, of re-routing shipments and preventing cross hauling and long hauling, or even in the imposition of demurrage rates. As to all matters of transportation, give him a free hand; but when it comes to the matter of rates, preserve the power over rate making in the hands of the Interstate Commerce Commission. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SIMS. Mr. Chairman, I yield one hour to the gentleman from Kentucky [Mr. BARKLEY], a member of the committee.

The CHAIRMAN. The gentleman from Kentucky is recognized for one hour.

Mr. BARKLEY. Mr. Chairman and gentlemen of the committee, I had intended to cover during my remarks three phases of this bill as those occurring to me to be the most important, and perhaps those which will be controverted more keenly than others by various members of the committee and of the House. I had intended to discuss first the compensation feature of the bill, and then the rate-regulating power, which has been discussed by the gentleman from Wisconsin [Mr. Esch], and then I desired also to discuss the question of the time limit or the tenure of Government control as provided in the bill and as advocated by some Members who do not entirely agree with that provision as it appears in the bill.

I think we ought, in the consideration of the compensation section of the bill, to keep in mind the fact that Congress can not fix the compensation which the Government must pay the railroads for their use during the period of Government control.

During the Civil War, when the Government took over under a law passed by Congress 2,105 miles of railroad mileage in the United States, Congress had attempted in the chartering of many of these railroads to limit the charges which the Government should pay upon those particular roads for the transportation of Government property, troops, and supplies, because of the fact that those were land-grant roads which had been allowed to use certain public lands of the United States. In the provision of the law it was attempted to be enacted that in the transportation of troops and military supplies these land-grant railroads should not be permitted to charge the Government of the United States for that service.

Notwithstanding that provision of the law and that provision in the original charters of their roads, the War Department during the Civil War undertook to construe that language to mean that while the Government might have the right to the use of the road itself, it did not give any right to the Government to use the rolling stock or the equipment of the road free of charge, and there was an appropriation made by Congress to take care of the charges that had been agreed to between the War Department and these land-grant railroads. The Supreme Court later, in the Atchison, Topeka & Santa Fe case, I believe, in the Ninety-third United States, decided that the War Department was within its jurisdiction in holding that while the Government of the United States might have the right to use the roadway, it did not have the right under the charter to expect the railroads to haul its troops and supplies without due compensation.

Now, in this bill we are not attempting to fix the compensation of the roads, because Congress has no power to fix the compensation. Under the Constitution, as has already been explained forcibly and lucidly by other gentlemen, the Government had the right to take the property. There may be some dispute in this argument as to whether, except by the act of August 29, 1916, the President would have had the right to take over the railroads under the elastic war power conferred upon him by direct and implied provisions of the Constitution. But laying that all aside, the President, acting under the power as conferred upon him by the act of 1916, took over the railroads in the absence of any congressional provision in regard to just compensation therefor. We are here attempting to provide a method of fixing that by agreement.

Now, Congress can not by any enactment fix the compensation. Congress can not by any enactment compel the railroads to accept any suggestion that it makes with reference to compensation. We can not take away from those railroads their legal right to go into court and submit legal evidence on the question of ample compensation, as intended by the Constitution. All that we are attempting to do here is to suggest a basis for a contract between the roads and the Government which will obviate the necessity of litigating that question in the courts of the United States.

Of course, we have provided that the President shall be authorized to make a contract. But we can not compel the roads to accept the contract which he will offer. He can not compel that any more than he can compel these railroads to accept any suggestion that he may make with reference to just compensation to which they may be entitled.

Therefore in determining how far the President may go in making this contract we have fixed the maximum as the standard return arrived at by an average of the three years ending June 30, 1917.

Mr. STEVENSON. Will the gentleman answer a question there that is bothering me a little?

Mr. BARKLEY. I will permit the gentleman to ask it, and I will answer it if I can.

Mr. STEVENSON. Is the President authorized to make any other contract than that provided in this bill, if the compensation does not exceed that which is provided in the bill? You say you prescribe the maximum.

Mr. BARKLEY. Yes.

Mr. STEVENSON. Is he authorized to go below that?

Mr. BARKLEY. He is authorized to go as far below the standard return as he can in making any contract that the railroad companies will sign. In all probability they will not be willing to sign any contract that goes very much below the standard return, but we know he can not go above the standard return.

There were witnesses before the Committee on Interstate and Foreign Commerce who advocated that we ought to go back for six years and take an average for six years in order to arrive at the standard return above which the President should not be authorized to go. In looking at the result that would have come about if that suggestion had been accepted we found ourselves confronted with a situation where we would have been compelled to fix a standard return which would have been based upon a capitalization or upon an amount of money invested very much below that amount which is now invested in the railroads throughout the United States. The carriers would probably not have accepted such terms, and the whole situation would have been thrown into the courts, with all the possibility of delay and uncertainty and consequently financial chaos.

Mr. HASTINGS. Will the gentleman permit a question?

Mr. BARKLEY. Yes.

Mr. HASTINGS. Why did you fix three years instead of one year; that is, 1915, 1916, and 1917 instead of the year 1917?

Mr. BARKLEY. I will state to the gentleman that the railroad companies desired that that should be done. Those who represent the railroad companies insisted that we ought to follow the policy that was followed by England in fixing the period next prior to the taking over of the roads in fixing their compensation. It so happens that in England the year 1913 was the high-water mark of net income and earnings of the British railroads. When the war broke out, on the 4th day of August, 1914, of course they had not completed their yearly period of accounting. The war between England and Germany came about on the afternoon, I believe, of the 4th of August. At 12 o'clock that night all the railroads in Great Britain were taken over by the Government by an order in council issued almost immediately upon the declaration of war.

Within a very few hours after England and Germany had locked horns in war England took over her railroads. They were taken over without any agreement about compensation. They were taken over under an old act of 1871, which permitted the Queen, by an order in council—and, of course, the King if it happened to be a King—to take over the railroads in Great Britain, not only in time of war, but at any time whenever it should be determined to be in the public interest. They had the right to take over the railroads, but they could only take them for one week at a time, and so from the 5th day of August, at one minute after midnight, 1914, until now they have renewed that order from week to week in England, in order to preserve and keep control of the railroads, because the law itself only allows them to take over the railroads for one week at a time.

It so happened that the year 1913 in England was the high-water mark of railroad earning capacity and the British Secretary of State under the English law made a contract with the railroads that they should be compensated upon the basis of the net income for 1913, which was the year previous to the outbreak of the war. There was subsequently an arrangement whereby, if the first seven months of 1914 were to exceed or to fall below the corresponding period of 1913, there was to be a readjustment of compensation in accordance with those results; but on the 1st day of January, 1915, that agreement was withdrawn, and now for all practical purposes we may say that England will compensate and guarantee her railroads upon the basis of the net earnings for 1913. I will say to the gentleman from Oklahoma [Mr. HASTINGS] that in view of the fact that 1916 was an abnormally prosperous year for the railroads in the United States, while for the year 1917 the net earnings had fallen off a little, the fiscal year of the railroads being the calendar year, instead of the year ending June 30, as formerly, we did not believe we should take one year alone. But in view of the fact that the war had been in progress during 1915, 1916, and 1917, and by a sort of reflex action upon industries and the financial system of the United States due to the world war, there had been some abnormal conditions on both sides, we thought an average of the year 1915, which was a very low year in railroad prosperity, and of 1916 and 1917, both of which were prosperous years, would be about as fair an average as we could arrive at.

in order to authorize the President to make a contract with those roads for that sum, if he should see fit, or for lower than that if he could persuade them to enter into a contract to that effect.

Now, the object of our committee has been, and the object of Congress ought to be, and no doubt will be, to provide in this law a contract that the railroad companies will be likely to sign, because if we should fix the maximum compensation so low that the railroads would not enter into it, and would fall back upon their legal right to go into court and have their rights adjudicated according to the rules of evidence and according to their earning capacity, which would be the test of their right to compensation, then we would tie up in the courts of law more than \$18,000,000,000 worth of stocks and bonds, and what has been estimated at nearly one-seventh of the entire property of the United States, and this would so undermine the credit and the financial structure of our country that we might precipitate a panic in the midst of war.

Because no man who has not given the question serious study can estimate the great influence the railroad securities of the country have on the structure and fabric of national credit, and anything that would undermine the securities and the stocks of railroads, anything that would unsettle the market with reference to railroad securities, would unsettle the market with reference to all securities, and might place the country in a serious and embarrassing situation. We felt that was about the best average, the most reasonable that could be arrived at—one lean year and two prosperous years.

Therefore, not having the power to compel the railroads to accept any compensation which Congress might fix, we have attempted to arrive at a reasonable sum as a basis upon the railroads and the Government might enter into voluntary agreement.

I would very much hate to imagine the disastrous results that would come to the country in this precarious posture in our financial and domestic affairs, if all or any considerable number of railroads in this country felt themselves justified in going into court and establishing the amount of money that the Government should pay them for the use of their roads. It is impossible to imagine the disastrous results that might come not only to the prosecution of the war itself but to all forms of credit or investment in our country during this period.

Mr. DOWELL. Will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. DOWELL. Is it not a fact that under this system a number of railroads will receive from 15 to 25 per cent on the par value of their capital stock?

Mr. BARKLEY. It is possible that some roads may receive more than 12 per cent upon the par value of their stock. I doubt very seriously if any will go as high as 25 per cent. But these roads have been making that net income on the par value of their stock before the Government took them over, and it would be competent evidence in any court of justice in the United States to show that that was their earning capacity, and the Government could not afford to put itself in the position of taking forcibly, without their consent, private property for public use and expect them to be limited to any particular percentage on the par value, because Congress might decide that it was too much, especially where they had the approval and sanction of the Interstate Commerce Commission which has the power to pass upon the reasonableness of their rates.

Mr. DOWELL. But suppose the rate fixed in the bill is both unreasonable and not a just rate, would the gentleman be in favor of paying what he believed to be more than what was reasonable and just after they are taken over by the Government?

Mr. BARKLEY. I think we may assume that the Interstate Commerce Commission has, in the main, performed its duty satisfactorily. The gentleman must not confuse a reasonable rate for hauling a particular consignment of freight with a reasonable return on the investment of the company. The Interstate Commerce Commission has the right to fix the reasonableness of any rate that the company may charge the public for service it renders, but they are not given by law any power to pass upon the reasonableness of dividends that may be declared by reason of the efficient and economical management by the company to which the stockholders may be entitled.

I do not know of any criterion where Congress could set itself up as the dictator of what should be a reasonable compensation as a reward for economic and intelligent management of these roads.

Mr. DOWELL. If the gentleman will permit, is it not true that when the Government takes over the railroads they are in a different position? The Government should pay to the railroad what is a reasonable rate. I think we all concede that. It

ought not to pay more than is reasonable and just. Is not that correct?

Mr. BARKLEY. Theoretically the gentleman may be correct, but legally he is in error. The Government is compelled to pay the railroad companies what they would be reasonably expected to recover if they went into a court and litigated what they were entitled to.

Mr. DOWELL. Does the gentleman believe that the roads should receive more than is just and fair or that they would recover more than what would be just and reasonable in a court of justice?

Mr. BARKLEY. That is a speculative question that nobody could answer, because nobody in advance can say what the court might hold as reasonable and just, but the court legally would be compelled to fix the verdict on the earning capacity of the road demonstrated by experience in the past.

Mr. RAYBURN. Will the gentleman yield?

Mr. BARKLEY. Certainly.

Mr. RAYBURN. Is it not also true that the capital stock of any road has little to do with the actual value of the road?

Mr. BARKLEY. That is true, or with the earning capacity.

Mr. DEMPSEY. Will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. DEMPSEY. Is it not a fact that during the years adopted, and for many years previous, the railroads, while they may on the basis on which the figures are made up have yielded a gross income of 12 per cent or over, have only paid a moderate dividend of 5, 6, or 7 per cent, and have used the rest of the gross earnings to keep up their rolling stock, roadbeds, and terminals, and by that policy have kept them up so as to handle efficiently the business which it was necessary for them to handle for the benefit of the country?

Mr. BARKLEY. That is true with respect to many roads. As has been suggested, the expense of the equipment of the railroads has within the last three years advanced nearly 100 per cent. The railroads must bear that expense, and because of the increase of expenses of equipment some have not been able to keep up to the standard that I believe ought to be set for railroads in the public service. Some of them, because of their effort to do so, have been denied the privilege of declaring dividends on their stock as a reward for the investments of the stockholders.

Mr. DOWELL. Mr. Chairman, will the gentleman yield again? I do not want to interrupt unless it is agreeable.

Mr. BARKLEY. I yield to the gentleman.

Mr. DOWELL. Is it not a fact that under this bill the Government itself takes care of all the expenses, the upkeep of the road, and has to keep it in as good condition as it was before the war?

Mr. BARKLEY. Yes; but that must come out of the earnings of the railroads, and it is charged as a part of operating expenses, just like it has been heretofore.

Mr. DOWELL. Is not the amount I have referred to the net, after paying all of these expenses?

Mr. BARKLEY. Not necessarily; but even if it were, in some isolated cases, that would not justify the Government in saying to a railroad which has been charging rates by the consent and sanction of the Government itself that because by wise and economic management it has been able to make a greater per cent on its investment than some other roads, that it is going to take that away from it and put it in the Treasury of the United States. That certainly would not be the criterion which we would set up for ourselves in passing on any other private property that the Government might feel it necessary to take over.

My colleague on the committee, the gentleman from Wisconsin [Mr. Esch], suggested that he had offered an amendment providing that where railroads had earned above a certain per cent—I think the amendment mentioned 5 per cent—during the period of the standard return, the three years ending June 30, 1917—that if they had earned more than 5 per cent on their investment the Government should in those cases guarantee interest upon their indebtedness, guarantee their regular dividend, and then divide all that was over and above that 5 per cent between the railroad company and the Government, in order to induce the railroad company to go on and be patriotic and act with efficiency and the same wisdom they had displayed heretofore. The amendment went further and provided that this one-half of the surplus should be used in paying roads that had not made up to that amount any deficit that might accrue to them in their operation during the period of Government control. In other words that amendment would penalize frugality and industry and wise control, and it would offer a reward for inefficiency. I can not imagine a more unjust provision for the compensation of railroads by the Government than to take away some of the money earned by the prosperous and well-

managed roads and give it to some that had been managed and operated with little wisdom or efficiency. [Applause.]

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. COOPER of Ohio. I would like to say to my colleague on the committee I believe that the road that made the highest percentage of net return for the last three years is the Pittsburgh & Lake Erie Railroad. I maintain that the Pittsburgh & Lake Erie is one of the best equipped and gives the best service; in fact, it has the name of being the best equipped and giving the best service of any railroad in the United States to-day. It would not be fair to take the earnings away from a railroad that is giving such service.

Mr. BARKLEY. Oh, no. I think the gentleman is entirely correct. I desire to discuss for a few moments the question of the power to make rates, upon which the gentleman from Wisconsin [Mr. Esch] has spoken so ably and yet, I think, so erroneously. The Interstate Commerce Commission has never enjoyed the power to initiate rates. The Interstate Commerce Commission of its own motion can not increase rates; it can not initiate rates; it has no initiative power with reference to rates except that whenever a railroad company fixes or files with it a schedule of rates, either upon complaint or upon its own initiative, the commission may investigate the reasonableness, the fairness, of the rates, and it may grant it or suspend it or entirely nullify it. But never has the Interstate Commerce Commission been given any right ab initio to bring about an increase or change in rates where the railroad companies themselves have not started the procedure.

Mr. DOWELL. But, under the system the gentleman has just referred to, the practical effect is to fix the rate by the Interstate Commerce Commission.

Mr. BARKLEY. The practical effect is that if the rate satisfies the Interstate Commerce Commission they approve it, and if the rate does not they disapprove it. But that is not the question that I am coming to. When these railroads were taken over by the Government, it has been suggested that they lost all incentive to bring about an increase in revenue. That may be true, because their standard return is guaranteed to them. That being true, if the railroad companies themselves have no further interest in procuring a change of rates, and the Interstate Commerce Commission can not do so, then where shall we lodge the power to initiate increases or changes in rates that are to be charged on the roads? Not only does this section apply to rates but it applies to regulations and practices of all sorts that are prescribed by the Interstate Commerce Commission and by the law. When the Government took over these railroads the President of the United States, under the law, stepped into the shoes of the managers and boards of directors and the presidents of all of the railroads in the United States. Therefore he succeeded by operation of law to the powers which they enjoyed prior to taking over the roads by the Government. That being true, then there is no other authority where the power to initiate ought to be lodged except in the hands of the man who succeeded in every way the management of these railroads while they were under private control. [Applause.] If the gentleman from Wisconsin [Mr. Esch] is correct, there can not be any change of rates while the Government controls the roads; and it has already been suggested, and we predict it with a certain degree of moral assurance, that the wages of the railroad men will be increased, and I think they ought to be increased. They may be increased as much as 20 or 25 per cent.

Now, if it becomes necessary to increase the wages of railroad men in order to do justice to them and keep them at work, satisfied and contented, and those increases should amount to \$100,000,000 or \$200,000,000, and it should be necessary for rates to be increased in order to make up the deficiency brought about by the increase in railroad wages, and the gentleman from Wisconsin succeeds in his amendment, who will have the power to bring about that increase? The railroads will not do it, because they are not any longer interested. They get their standard return, no matter what the revenues, no matter what the wages, no matter what the expenses may be. They have no further interest in it and it can not be presumed they will do it.

Mr. RAYBURN. Has an additional burden like that ever been placed upon the railroads of this country by the Interstate Commerce Commission that they have failed to respond to it?

Mr. BARKLEY. I think not.

Mr. GORDON. Why does the gentleman assume they will not do it now?

Mr. BARKLEY. Because nobody has the power. The Interstate Commerce Commission can not make any changes of its own motion. It can not say, "We have heard in a roundabout way that the President increased wages, and that will increase operating expenses, and in order to meet the deficit we must raise the rate." They can not do that; nobody proposes to give them power to do it, and they ought not to be given the power ab initio to start proceedings.

Mr. RAYBURN. I will call attention to the fact that the amendment I offered to the committee gave the President the power to initiate rates and put him in exactly the same position that the railroads are now and left the Interstate Commerce Commission exactly as it is now.

Mr. BARKLEY. And let the Interstate Commerce Commission come along and veto what the President has done and overrule him in the exercise of its power. If the President enjoys any power in the control of these roads it is either by virtue of the statute itself or by the implied war power of the Constitution. He has taken them over according to his proclamation in pursuance of the statute passed in August, 1916. Now, I do not believe the President of the United States—

Mr. RAYBURN. May I ask the gentleman this question? Everybody knows—I presume that they do—that the President will not upon his own knowledge, and without consulting anybody, fix these rates, and neither will the Director General. He is going to consult somebody. Where in America is there a better body to consult than the Interstate Commerce Commission? [Applause.] And where, further, is there a body in this Government that in its long standing has been subject to as little just criticism as the Interstate Commerce Commission?

Mr. BARKLEY. I agree with every statement the gentleman from Texas makes, and I am perfectly willing for him to consult the Interstate Commerce Commission and the bill provide that the commission shall be consulted. If anybody objects to a rate that he makes, they can take it up and have a hearing, and then the findings of the Interstate Commerce Commission are prima facie evidence of their own correctness, and there is not a President of any political party who would not be guided by the results of the investigation of the Interstate Commerce Commission in so far as possible in the public interest.

Mr. RAYBURN. If the framers of this bill had not been driven as a final thing to make—

Mr. BARKLEY. How is that?

Mr. RAYBURN. If the framers of this bill had not by sentiment in the committee and outside of it been driven in some way to bring in the Interstate Commerce Commission with reference to these rates and somebody else had been in favor of the Interstate Commerce Commission and brought in this amendment, the gentleman who believes that the President should be charged with all of this authority would have said that this amendment was an insult to the President of the United States, for this reason—

Mr. BARKLEY. I yielded to the gentleman for a question. Go ahead and finish the question.

Mr. RAYBURN. Oh, well, I have not asked the question yet.

Mr. BARKLEY. The gentleman is a long time getting ready to ask one.

Mr. RAYBURN. I am not going to ask it.

Mr. BARKLEY. When the bill was first brought in those who believed with the gentleman from Texas, fearing that the President might have some authority to initiate a rate, brought in an amendment reserving specifically to the Interstate Commerce Commission the right to initiate or to fix rates.

Mr. RAYBURN. Yes.

Mr. BARKLEY. Then it was that this provision was added to the bill in the committee, not because they were driven by anybody, but because they wanted to preserve the unity of control of these railroads while they are under Federal control. It is a ridiculous anomaly, if I may be permitted to suggest, that the President of the United States has the right to increase the wages of the employees of all those companies and yet can not increase the revenue. [Applause.]

Mr. LENROOT. The railroads can not do it.

Mr. BARKLEY. They can do it, subject to the approval of the Interstate Commerce Commission. But they have been superseded by the Government and no longer are interested about whether revenues are sufficient to meet expenses.

Mr. DECKER. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. DECKER. Let me suggest to the gentleman from Wisconsin [Mr. LENROOT] that there is this vital difference between the private owners of railroads and the Director General of the United States, manager of railroads. The private owners of railroads are human beings, and look after their own interests

first. The Director General of the United States is a public official, representing you and me and 110,000,000 people, and he looks out for both sides.

Mr. LENROOT. How about the Interstate Commerce Commission?

Mr. DECKER. Who appoints the Interstate Commerce Commission?

Mr. FORDNEY. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. FORDNEY. The gentleman has stated undoubtedly the wages of railroad employees will be increased, and I agree with him. Who will do that, the President of the United States having control, and if so, would not the President recommend increases of rates to the Interstate Commerce Commission, and would not the Interstate Commerce Commission, under such circumstances, knowing that the increased cost of operation had been brought about by the President, listen to his recommendation, which was for an increase of rate?

Mr. BARKLEY. I think they would, but we have heard so much about rubber stamps here during recent sessions of Congress that I am unwilling to make a rubber stamp out of the Interstate Commerce Commission. It might be true that they should act upon the suggestion of the President because he requested them to make an increase, but it seems to me ridiculous that, as the President has the power to control the matter himself, he must go to some subordinate body in order to get power to increase the income.

Mr. FORDNEY. If you are going to make a rubber stamp of him in increasing the operating cost of the railroads, why not make a rubber stamp of him anyway?

Mr. BARKLEY. I will say to the gentleman that if he has the power to increase the operating expenses of the road he has the power to increase the income. We might as well face the situation now, because if there is any deficit in railroad income you will all be called on to vote a tax upon the people in order to make up the deficit to the Treasury, and we might as well provide for some means of providing for it in advance.

Mr. FORDNEY. I agree with you, and that is exactly what we are coming to, in my opinion. I know this, further, and I am half agreeing with the gentleman entirely, the Interstate Commerce Commission for the past decade has not permitted increased rates in the country in keeping with the increased rates on the railroads of other countries in the world. A comparison of statistics will show that. I do not believe they have been fair with the railroads in permitting income in keeping with increased cost of operation. That right ought to be put somewhere where the railroads will get justice in that respect.

Mr. BARKLEY. I think there is a good deal of force in what the gentleman says. Now, it may be true, and I think it is true, that heretofore the Interstate Commerce Commission has not allowed increases in rates proportionate to the increases that were forced upon the railroads in matters of wages and other operating expenses. I am not criticizing the commission for taking that attitude. They may be entirely correct, because in passing upon a rate they pass upon the reasonableness and justice of it, and not necessarily in relation to what they may have been compelled to pay out on some other account. But here is a situation where the Government has come in and supplanted the railroad managers. Previously the railroad managers had the right to initiate a rate, while now under this bill the President has the right to initiate a rate, and it must be a reasonable and just rate. It must be a just or reasonable practice or charge. He is compelled to file that rate with the Interstate Commerce Commission, and if any human being complains about the injustice or the unreasonableness of that rate, the Interstate Commerce Commission must investigate it and report the facts back to the President; and their findings are prima facie evidence of their own correctness. Now, the point of difference between some gentlemen, and the point of difference between this provision and the bill as reported to the Senate, was that after the Interstate Commerce Commission has made this investigation they have the power to veto the action of the President and nullify his act, and they may be actuated purely and simply by the reasonableness of the rate itself for the service rendered, wholly independent of any outside circumstances.

Mr. FORDNEY. I will say to the gentleman this, as a comparison, that the railroads in Canada for the past few years, under Government control, have spent \$102 for every \$100 of receipts, which left them no money for betterments of the roads in Canada. Those are Government-owned roads that I refer to now. If that condition were brought about in this country, then there must be increased rates to offset that added cost of operation, or the people must be called upon to go down in their pockets and pay taxes to meet that difference, or the railroads are going into bankruptcy.

Mr. BARKLEY. That is absolutely true.

Mr. LENROOT. The gentleman states that if the Interstate Commerce Commission decides this, they are limited to the reasonableness of the rates. I want to ask him if under his proposition the same limitation does not rest upon the President?

Mr. BARKLEY. Of course.

Mr. LENROOT. And who is more competent to ultimately decide that question, the Interstate Commerce Commission or the President?

Mr. BARKLEY. I think if the President of the United States had the opportunity to go into a long-drawn-out investigation, he might reach as correct an interpretation of the reasonableness of the rates as the Interstate Commerce Commission. And I do not anticipate and I do not think that the gentleman from Wisconsin needs to fear the President of the United States is going to increase or change rates or practices by the wholesale unadvisedly. But now and then there may be a situation that may need to be remedied instantly, where some change not only of a rate that affects the whole country, but some particular local rate, or some practice or some charge in the facilitation of the hauling of freight, may be necessary. If it were necessary for the Interstate Commerce Commission to go into a long investigation, the efficacy of the ruling might be worthless by the time they reached a conclusion about it.

Mr. LENROOT. The gentleman knows that it is not necessary under the present law for the Interstate Commerce Commission to do that.

Mr. BARKLEY. Railroads, as I suggested a while ago, are not going to initiate any changes of rates, because they get their guaranty just the same, and they have no incentive to do so.

Mr. LENROOT. But the President may now, may he not?

Mr. BARKLEY. I think he can. There is considerable legal doubt as to whether he can do it or not.

Mr. LENROOT. Not to initiate them.

Mr. BARKLEY. Eminent lawyers have said to the contrary, and I think they are wrong; but whether he can or not, that is the very reason this amendment was first brought in here, because they thought he had the power and they did not want him to have the power.

Mr. LENROOT. The gentleman should bear in mind that there is a distinction between the initiating of rates and the making of rates.

Mr. BARKLEY. I understand that.

In the demurrage cases that my friend from Wisconsin [Mr. Esch] made so much light of, it was necessary to bring about some sort of compulsion in the unloading of freight cars. The Director General, of course, increased the demurrage charges up to \$10 a day in order to compel men to unload freight cars and bring about a relief of the congestion.

It turned out afterwards that there had been some prior arrangement made by men under the previous conditions, and he modified his order in order to relieve that situation. But if he had been compelled to go before the Interstate Commerce Commission and subject himself to the delay of an investigation, it would have been too late to have brought about the remedy.

Mr. LENROOT. If the gentleman will yield—

Mr. BARKLEY. Yes.

Mr. LENROOT. No delay is necessary on the part of the Interstate Commerce Commission unless they choose on hearings to suspend this rate. Does the gentleman think they would suspend a rate initiated by the President?

Mr. BARKLEY. Well, if it is assumed that the Interstate Commerce Commission is going to approve everything the President does, if his acts are to be final anyway, I see no use in giving them authority to nullify them absolutely. If that were to be the assumption, he might as well put them in force at once.

Mr. DEMPSEY. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. DEMPSEY. Is not the gentleman's position logically this: That under private ownership the railroads could initiate a rate, but a check was put upon it by the Interstate Commerce Commission because of the interest of the railroads; and does not that interest disappear the instant they go under Federal control, because the President, who has the power to initiate rates, has no interest whatever in what the rate shall be? It is his interest simply to do that which is best, taking all things into consideration.

Mr. BARKLEY. Absolutely.

Mr. DEMPSEY. And is it not sufficient, under any circumstances like that, to have the Interstate Commerce Commission merely investigate and advise, because they are advising a man who has no interest and only wants to serve the public?

Mr. BARKLEY. The gentleman has stated it very correctly and forcibly. Not only is it a fact that the President, as I sug-

gested at the outset, represents in his official capacity the railroads, because he has taken them over and stepped in in place of the managers and directors of the railroads, but the President also represents the public.

Now, the Interstate Commerce Commission was created in order to protect the public against the railroads, and in order to make its powers of any effect it was given the power to enforce its decrees. It was not given merely advisory power with reference to the increase of rates by railroads, because it was presumed that the railroads would not check their increase of rates merely upon the advice of the Interstate Commerce Commission, and therefore the actual power was given to the commission to enforce its decrees. But here the President of the United States has no selfish interests to serve. He has taken over the railroads and in a larger capacity he represents the public, so that it is not necessary to protect the public against their own servant who has been chosen by them to act for them in the administration of the Government.

Mr. PLATT. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. PLATT. I wanted to suggest also if it did not come down to this, that in time of war it is necessary to act first and investigate afterwards.

Mr. BARKLEY. That is frequently found to be necessary.

Mr. GORDON. How does it come that Congress has taken a different view about trusting its own chosen servants? If they had so much confidence in the President to fix railroad rates, why did they not leave it to the President when they passed this law? And what is there in time of war to qualify the President to determine such an intricate matter as the fixing of railroad rates?

Mr. BARKLEY. The gentleman from Ohio is on the Committee on Military Affairs, and that committee when they brought the Army bill out gave the President the right to take possession and assume control of the railroads.

Mr. GORDON. Yes; but not to fix rates. You do not find that in the law.

Mr. BARKLEY. I understand that very well. The gentleman's committee not only did not give the President the right to fix rates, but did not provide any means of compensating the railroads when they were taken over, and that is why this bill is here.

Mr. GORDON. The reason why we did not do that was because we did not know how much money would be necessary. We did not know what the railroads would be worth.

Mr. BARKLEY. Do you know any more now?

Mr. GORDON. No; yes; we know more than we did then, but we do not know that.

Mr. BARKLEY. I have some doubts about that.

Mr. DOREMUS. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. DOREMUS. Under this bill the President is authorized to make these contracts with the railroads. These contracts will provide for a certain return to the road. The Interstate Commerce Commission is no party to that contract. Under those circumstances does not the gentleman think that the Congress should clothe the President with all the power that is necessary to carry out the contract that he makes with the roads?

Mr. BARKLEY. Absolutely; and he ought not to be handicapped or be put in a situation where he would have to cramp himself or his Government in order to carry out the contract.

Mr. LENROOT. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. LENROOT. Does not a section of this bill have for its very purpose the purpose to enable the President to carry out that contract? I refer to the \$500,000,000 appropriation.

Mr. BARKLEY. Yes; but we do not know how much of that \$500,000,000 appropriation is to pay any deficiencies arising by reason of the Government operation. That is only one of the objects.

The primary object of that appropriation is to create a fund out of which the President can construct equipment and rolling stock in order to enable the Government to carry out its war purposes, for which it took over the railroads. Of course if there is a deficit he may pay for it out of this \$500,000,000 fund.

Mr. DOREMUS. Mr. Chairman, will the gentleman permit another question?

Mr. BARKLEY. Yes.

Mr. DOREMUS. Which policy does the gentleman think is preferable: To meet a deficit by taxing the people or meet it out of the revenues?

Mr. BARKLEY. I think I have answered that. But the question almost answers itself.

Mr. GORDON. Mr. Chairman, will the gentleman permit a question?

Mr. BARKLEY. In just one moment.

Mr. GORDON. I thought you said the question answered itself.

Mr. BARKLEY. I am going to amplify it. I think it will be easier for Congress to give the power to increase the revenues of the roads than to increase the taxes which would be necessary to make up the deficit. The people have to pay for it anyhow, and my experience is that they will be more willing that the deficit shall be paid out of the revenues than that it shall come in the form of taxes out of their own pockets.

Mr. DEMPSEY. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. DEMPSEY. Does it not come to this, that the fixing of rates involves two sets of people? In one case, if you fix them too high, it involves taxes to all the people, and if you fix the rate just high enough it involves only the shippers?

Mr. BARKLEY. Yes; and not only that, but—

Mr. GORDON. I would like to supplement that question.

Mr. BARKLEY. I hope the gentleman will get time enough to make a speech himself, because he is evidently loaded up with something that oppresses his system. [Laughter.]

Not only have we got to consider the question of revenues and expenses as they may counteract each other, but one of the main reasons for the taking over of these railroads by the Government was the fact that there is an intimate financial relationship existing between the railroad companies and the stockholders, and the Government of the United States by reason of this fact. There is about to be put upon the market another Liberty loan campaign. There ought not to be any competition between the Government of the United States and any other great interest in the money market, and we know that the money markets have been closed to the railroads for the last two or three years. The railroads have been unable to borrow money, and that is one reason why some of their equipment has gone down. The money markets of the world have been closed to the railroads, and this was necessary to be taken into consideration in taking these railroads over not only to unify their physical control but to unify the relationship between the financial situation of the railroads and of the Government of the United States, and it might be a very embarrassing and disastrous situation if by reason of handicapping and dividing authority to control the railroads the Government were not able to provide revenues sufficient to carry them on.

Mr. GRAHAM of Illinois. I want to ask this question: The gentleman says, as I understand it, that he thinks instead of being levied upon the people by general taxation it ought to be levied upon the shippers, a special class, and that that would be more equitable. The railroads are being taken over for the benefit of all the people, are they not?

Mr. BARKLEY. Why, yes, in a large sense.

Mr. GRAHAM of Illinois. Is it not true, then, that you ought not to impose a special burden on a special class of people, namely, the shippers, when the taking over is for the benefit of the whole people? Do you not think your argument about that is wrong?

Mr. BARKLEY. No, I do not; and I will tell the gentleman why. If the Government had not taken over the railroads, in all probability there would have been a very large increase in wages to their employees. I think it is practically certain that there would have been an increase. There might have been more of an increase than there will be under the Government. If that increase had come under private ownership the public would have had to pay for it in the payment of freight rates. There is not any doubt about that, because the railroads, either under private or public control, ought to take in as much money as they pay out. Now, does the situation change merely because as a war measure the President was compelled to take over the roads? Ought they not to pay their operating expenses? Ought they not to pay for their increased equipment? Ought they not to be able to pay these things out of earnings? Ought they be taken out of the Treasury, merely because the Government has taken over the roads? I do not think so.

Mr. GRAHAM of Illinois. The answer to that is that the burden that is being assumed by the Government is being assumed for the benefit of all of us.

Mr. GORDON. On account of the war.

Mr. GRAHAM of Illinois. On account of the war and of war conditions; but your plan proposes to place a burden on a special class of people who ship stuff over the railroads.

Mr. BARKLEY. That statement is only partially true.

Mr. PLATT. The shipper does not have to pay it. He passes it on.

Mr. BARKLEY. The shipper pays it initially, but the people, after all, pay all freight and all taxes alike. It is distributed among the people, and in such form and in such quantities that

they may not always feel the burden; and it is an unwise financial policy to inaugurate here in the very beginning the possibility of creating more expenses than the revenues of the railroads will be able to meet.

Mr. GRAHAM of Illinois. Let me add to that question that under normal conditions perhaps that argument is correct, but when you have a special fixing of prices of certain things—for instance food, which constitutes a large part of the shipments by freight in this country—then another element enters into the question of governmental control which perhaps you have lost sight of in your argument.

Mr. BARKLEY. It is difficult, of course, to separate that part of it that is incidental to the war from that part which is incidental to commercial traffic generally.

But having taken them over as a war policy, the Government must assume the burden of carrying the commercial traffic with the same wisdom and financial foresight. It could not throw aside all rules of finance, because, having taken them over as a war measure, they have to regulate the charges incident to commercial traffic.

Mr. PLATT. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. PLATT. I want to ask a question in reference to this provision that all fares, rates, and charges shall be fair, reasonable, and just. Would the gentleman hold that the President under this bill, if it passes as it is, would not be allowed to initiate a rate, perhaps for the purpose of shutting off some traffic? Suppose the excursionists were coming to Washington and crowding the accommodations; would the President have the right to raise the passenger rates to keep people from traveling?

Mr. BARKLEY. It would all be subject to the provision that they must be just and reasonable. In England it so happens that they did raise the passenger rates 50 per cent in order to discourage passenger travel. It was necessary in order to carry the freight traffic of the railroads to discourage passenger travel by increasing the rates more than 50 per cent. Whether that would be a wise policy in this country I do not say; it will all depend on circumstances.

Mr. HARDY. Will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. HARDY. I think the gentleman has presented the question of the right of the President to initiate rates very forcibly. Would not it be an anomaly to have two executive administrative officers, and one of them a subordinate, allowed to overrule his superior? If the Interstate Commerce Commission as an administrative body were allowed to finally overrule the action of the President in fixing these rates, would not that in itself be an anomaly and an absurdity?

Mr. BARKLEY. That is a ridiculous situation, which I called attention to a while ago. The railroads were taken over in order to unify them, because under separate competitive systems and boards of directors they desired to get all the traffic and revenue they could, and they could not unify themselves. Now, unification or physical control is wholly incomplete unless the unification of financial control goes hand in hand with it. It is a ridiculous situation to say that a subordinate body can overrule the action of the President in a great war crisis.

Mr. MADDEN. Will the gentleman yield?

Mr. BARKLEY. I yield to the gentleman from Illinois.

Mr. MADDEN. Does the gentleman consider the President of the United States in the same position that the railroad companies themselves were under the law?

Mr. BARKLEY. Before they were taken over?

Mr. MADDEN. Before and after they are taken over is not he in the attitude of the railway company, in the same position?

Mr. BARKLEY. Yes; he steps in, and what authority they exercise now is through his consent and by reason of the permission that he gives.

Mr. MADDEN. If he takes the place that the railroad company formerly occupied, could he have any greater power to initiate rates and put them into effect than the railroad companies themselves had?

Mr. BARKLEY. Yes; for the reason I suggested a moment ago. Not only does he take the place of the railroad companies, but the desire or incentive of the railroad companies to gouge the public is removed. He not only stands in the relationship of the railroad managers, but he represents the public and has no desire to increase rates unreasonably. There is no logical reason why the Interstate Commerce Commission should stand between him and the public when he is the representative of the public as much as they are.

Mr. MADDEN. I understood the gentleman to say, and the purpose of his argument was, that the President might have a superior power to increase a rate, to get increased compensation which the Interstate Commerce Commission as a body would not allow.

Mr. BARKLEY. I say that is one situation that enters into the wisdom of giving him the power to do that; there may be a hundred others, but that is one. It is presumed that freights may be changed, may be rerouted, taken off one road and put on others, and it would be a serious embarrassment if the President did not have the right to change rates, charges, or practices so as to facilitate the transportation of freight over one road or another which had never enjoyed the transportation of that freight.

Mr. MADDEN. Then what becomes of the gentleman's argument that the President is not in the same position to gouge the public by charging increased and unreasonable rates which the railroad companies were themselves in before he took them over?

Mr. BARKLEY. I say he has no incentive to do that.

Mr. MADDEN. If he increases the rates beyond what they are, what would the gentleman call it?

Mr. BARKLEY. I am not qualified to pass on the reasonableness of any rate, and I do not know what it is going to be. I do not believe that any President in opposition to the report of the Interstate Commerce Commission would insist on an unreasonable rate on freight.

Mr. GORDON. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. I yield to the gentleman.

Mr. GORDON. You have provided in this bill that any rate fixed, whether by the President or anybody else, must be just and reasonable?

Mr. BARKLEY. Yes.

Mr. GORDON. And yet the gentleman is arguing for the arbitrary power in the President to impose a rate, just or unjust?

Mr. BARKLEY. Oh, no. The gentleman misses the whole question involved.

Mr. GORDON. The gentleman is also arguing that the President when he finds that the rate he has imposed is unjust and unreasonable through an investigation of the Interstate Commerce Commission, shall as an honest man proceed to change it. Why not allow the Interstate Commerce Commission to fix it before it becomes operative and effective, just exactly as it did before this war started?

Mr. BARKLEY. Because there might be a hundred circumstances when immediate action is necessary to facilitate transportation of freight or protect the interests of the people, and if you give him power with reference to one thing, you must give him power with reference to the whole field, because Congress can not divide up the field and say that the President shall have the right to fix such rates as shall affect the war; but as to commercial rates he shall have no power, because it is impossible in a legislative way to draw the line between strictly war business and commercial traffic.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. BARKLEY. May I have 10 minutes more?

Mr. SIMS. I yield 10 minutes more to the gentleman.

Mr. BARKLEY. The last thing I desire to discuss, and I am sorry that I have taken so much time, is the question of the tenure of Government control as provided in this bill. I am one of those who do not believe there ought to be any time limit fixed in this bill, not because I may or may not favor Government ownership, nor because I believe that Government ownership necessarily is coming. It is wholly unnecessary to discuss the question of Government ownership in deciding upon whether there shall be a time limit after the proclamation of peace within which these roads shall pass back to their private owners. This bill provides that the Government shall, if necessary, buy equipment, rolling stock; it may even buy and build terminal facilities or branches, extensions of the line. It may even, under the bill, buy the bonds that are permitted to be issued by order of the President in order that the railroads shall not come into competition with the Government in the borrowing of money. If this war should last for three or four years—and I do not think even Solomon himself, if he were here, and he enjoyed some reputation for being a wise man, could tell anything about how long the war is going to last—I do not believe anybody in Congress or in the United States is wise enough now to say in advance what character of laws may be necessary in providing for the return of these roads to their private owners. It may be that we will have to spend more than a billion and a half of dollars, it may be \$2,000,000,000, in the purchase and the construction of equipment necessary to carry on the railroads while the war is in progress. It may be that under the provisions of this bill the Government will purchase bonds issued by the railroads, because they can not issue bonds under this bill except by approval of the President, and he is authorized, if necessary, in order to take the railroads out of competition with the Government in the issue of bonds, to purchase those bonds on behalf of the Government.

Mr. LENROOT. Mr. Chairman, I would like to hear the gentleman on the proposition of what right we have under the Constitution to hold these railroads after the war is over for more than a reasonable time.

Mr. BARKLEY. If I get time, I shall come to that, but I do not want to interrupt my thought right now. It will take at least a year after the war is over and peace is proclaimed to bring the soldiers back from Europe. It may happen that it will be necessary entirely to revolutionize the character of control that the railroads shall resume after they are turned back to their owners. I think we may predict with reasonable certainty that they will never be turned back under the old competitive conditions that existed prior to their taking over by the Government. We might as well recognize the fact that this is not only a military war, a world-wide conflict between military powers, but the result of this war will be a universal world-wide economic revolution, brought about by reason of or during the progress of the war. We may assume, I think, with a reasonable degree of certainty that these roads will not be turned back to their owners under the same conditions that existed prior to the time the Government took them over.

Mr. HARDY. Mr. Chairman, Congress is going to be in session annually right along after the war is over. Is there any reason why, when that time comes, Congress then in existence should not be allowed to control the matter under the conditions that then exist?

Mr. BARKLEY. Of course that is true, but I want to submit a suggestion as to the unwisdom of having a time limit for that reason.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Not now, I have only 10 minutes. We have not the power of foresight to tell us what sort of legislation will be necessary. The bill provides for a two-year limit. If it should happen that in those two years the economic and financial conditions of the world are such, and the relations of the Government have become entwined and entangled with these railroads to such an extent that they can not be untangled in two years, then either we must turn back those roads automatically without any provision of law under the old competitive and chaotic conditions, or we must extend the time limit beyond the two years.

Mr. SHERLEY. What does the gentleman say to the converse of that, where if you happen to have a President that wanted Government ownership it would take two-thirds of the Congress to undo it?

Mr. BARKLEY. It takes two-thirds of the Congress to override any veto of the President, and I do not think we should act unwisely because of any fear of a veto.

Mr. SHERLEY. Yes; for this reason, that the war is a reason for doing things now, but it is not a reason for making it a continuing condition.

Mr. COOPER of Ohio. Will the gentleman yield for a question? I would like to ask the gentleman what power the President has to hold a railroad after the conclusion of peace? Tell me what power he has to hold a road after the declaration of peace?

Mr. BARKLEY. Congress in time of peace can pass a law taking over every railroad in the United States under the commerce clause of the Constitution.

Mr. COOPER of Ohio. Has he got the power now?

Mr. BARKLEY. And if Congress can do it in time of peace, Congress has the power in time of war to say that under the commerce clause it can continue their possession and operation after the war is over. In the absence of congressional action he could only keep them for a reasonable time after the war. If the time should be about to expire, and Congress has not acted, and there is an uncertainty in the money market, \$18,000,000,000 worth of securities are hanging by a thread; nobody knows what Congress will do, and if Congress hesitates and vacillates, and there may be a division between the Senate and the House or a division between the Congress and the President, and we should from time to time be compelled to pass a resolution of extension, that very uncertainty would put in motion such fear, doubt, and lack of confidence as might bring about in the United States a panic the like of which we have never seen since the Government began. Therefore I believe it is better to leave this matter to the wisdom of some future Congress without tying their hands, without compelling them to act with a stop watch, and depend upon the vision and the wisdom of some future Congress to act in the light of the circumstances that may then exist, and not try now to handicap them.

Mr. MADDEN. Will the gentleman yield for a short question?

Mr. BARKLEY. I yield for a short question.

Mr. MADDEN. This is an important bill and, I take it, involves all the value of the railroad companies in the United States, and it will not take more than a week to pass it, and I assume it will not take but two or three or four days to pass the legislation that will be necessary after the war closes.

Mr. BARKLEY. Oh, if the gentleman means to say that after this war is over, and the relationship between the railroads and their competitors is entirely wiped out, and the Government becomes entangled in the mesh of financial operating relations between railroads, that a law might be passed within a week providing for that situation, it is not doing the intelligence and the foresight of the gentleman from Illinois justice. It might be possible to pass a bill within a week after it is brought in the Congress, but who can tell how long it will take for the Government and Congress to determine what sort of a bill ought to be passed, and what sort of a permanent policy should be adopted with reference to the railroads?

Mr. MADDEN. It will not take very long to pass this one, and this is a very important bill.

Mr. BARKLEY. We are passing this with a great deal more expedition than we would if it were not so important and necessary to get it off our hands right now. When this war is over, and we are considering the changes coming out of it, we need not try now to blind ourselves to the conditions existing then whether we are for or against Government ownership. We can not stop the current of human progress, if people should favor permanent control, by placing a two-year limit upon the expiration of the term of Government control. I have heretofore referred to the fact that prior to the Civil War the Supreme Court thought it had settled the slavery question when it rendered the Dred-Scott decision. It did not settle it at all. It took four years of war to settle that question. I mention that not because this law will have a like result, but because it is impossible for Congress or courts to stem the tide of human progress in any direction the people may determine upon. It certainly can not be done by attempting to dam up the stream. I believe it to be the part of wisdom to leave the time open in order that future Congresses may deal with it in the light of the conditions that will exist after the war is over. I am not afraid to trust any Congress that the American people will select to deal wisely with this question, not under compulsion or limitation, but with vision, patriotism, and experience, in the light of the new conditions that will come as a result of the war, so that the interests of stockholders, the Government, and the American people may be safeguarded and protected. No suitable adjustment can be made or even forecast now. None should be attempted in blindness. The light we have to-day does not penetrate far enough into the future to reveal what may be necessary then. Let us leave the solution of that problem to those who may be called on to deal with it when peace and readjustment shall have approached. [Applause.]

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ESCH. Mr. Chairman, in view of the fact that the other side has used 2 hours and 25 minutes this afternoon I would like to yield to three or four Members on this side in succession.

Mr. SIMS. That will be perfectly satisfactory.

Mr. ESCH. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. Cooper].

Mr. COOPER of Ohio. Mr. Chairman and members of the committee, I have no desire to take up much time during the general debate on the bill which we are now considering. I believe that this is a time when every Member of this body should confine himself to things worth while, and the important issues which are before us relative to the great war in which we are now taking part. But this measure is a war measure in which we are all interested, and I believe it is one of the most important and far-reaching propositions our Government has ever undertaken, because there is involved in this measure the taking over by our Government of private property which is valued at approximately seventeen or eighteen billion dollars. I am one of the members of the Interstate and Foreign Commerce Committee, which held hearings and considered this measure—and at this point I want to congratulate the chairman, Judge SIMS, on the efficient manner and the successful way in which he conducted the hearings on this bill. In taking up this measure for consideration, I believe it is the duty of every Member of this body to consider the most important fundamental principle involved in this bill, and that is, the Government is taking over the railroads of our country to control and operate the same, as a real necessity, to help us and our allies to win the war. I believe that is the first and most important question which every Member ought to bear in mind while we are considering this measure.

There are two sections of this bill—sections 11 and 14—in which I am intensely interested and desire to express myself upon them at this time. Section 11 relates to the liabilities of common carriers while under Federal control. Section 11 says:

That carriers while under Federal control shall, in so far as is not inconsistent therewith, or with the provisions of this act, or any other act applicable to such Federal control, or with any order of the President, be subject to all laws and liabilities as common carriers, whether arising under State or Federal laws or at common law. Suits may be brought by and against such carriers and judgments rendered as now provided by law, and in any suit against the carrier no defense shall be made thereto upon the ground that the carrier is an instrumentality or agency of the Federal Government. But no process, mesne or final, shall be levied against any property under such Federal control.

I desire to say that this section was considered very carefully by the committee who had charge of the bill, and we were concerned very much regarding the wording of this section, which has to do with the rights and remedies to recover for injuries and damages which we now have under State and Federal laws. The wording of the section says that the carrier shall be liable, and that suits may be brought by and against such carriers and judgments rendered as now provided by law. I must confess that I know very little about law, as I am not a lawyer or a member of that honorable profession, but I want to call your attention to the words starting in line 2, page 12, "or with any order of the President be subject to all laws and liabilities as common carriers." Now, it seems to me, that these words are very clear, for it states that the railroads shall be liable for all damages, providing the order which might have caused the damage or injury was not issued by the President or some one vested with power under Government control. Now, what I want to know is—and I trust some of the lawyers of this body will explain these words before we finish this bill—who is going to be liable for injuries or damages which may have been caused by an order of the President or the Director General of the railroads while they are under Government control. Mr. STINNESS, of Rhode Island, brought the question before the committee, and he cited such an instance as this: Supposing that a certain locomotive or railway equipment was not in a safe condition to make a trip over the road, and on account of the condition of such equipment the division superintendent or the train master refused to let the locomotive, train, or cars go over the road until it was in good condition and safe to the traveling public and employees of the railroad. Now, let us suppose that the Director General or some one with Government authority ordered this equipment to be moved, stating that it was a war necessity, and a serious accident happened by reason of this defective equipment. What I want to know is, Who would be liable for damages in a case of this kind? Surely no court would hold that the carrier was liable. And then, again, I want to call the lawyers' attention to the words in lines 9, 10, and 11, on page 12, which say:

That no process shall be levied against any property while under Federal control.

It seems to me that when a party sues and gets final judgment in his favor it is evidence conclusive that he is entitled to payment of the same; and in the case of a badly injured employee, if he can not obtain it, great suffering and loss is the probable result. Now, if one was to get judgment against the carrier, section 11 says that no process can be levied against the property of the carrier while said property is under Federal control. Now, I fully realize that this being a war measure it would be a bad thing to frame this bill in such a way as to let anyone who might have secured a claim for damages against the carrier tie up the road or equipment; but I do wish the chairman of this committee or some one would suggest an amendment to this section which would enable the injured employee or creditor to get his pay and at the same time fully protect the Federal Government in the use, possession, and control of the property so sold.

Mr. CLARK of Pennsylvania. Will the gentleman yield?

Mr. COOPER of Ohio. Yes.

Mr. CLARK of Pennsylvania. Does the gentleman come to the conclusion that there is no effective remedy for this?

Mr. COOPER of Ohio. I do not think so under this bill.

Mr. CLARK of Pennsylvania. What was the consensus of opinion in the committee?

Mr. COOPER of Ohio. That question was discussed very carefully, and I do not believe there were many members of the committee that cared to say that this section fully protected an injured person who might be entitled to recover damages.

Mr. CLARK of Pennsylvania. The gentleman's opinion accords with my own, for I do not believe there is any remedy.

Mr. BARKLEY. If the gentleman will permit me, a suit might be brought against the railroad and a recovery had, be-

cause it makes no difference whether the Government is liable or the road is liable, it all comes out of the operating expenses and is charged up to that.

Mr. COOPER of Ohio. That is not in the bill. If you will put it in the bill I will support it.

Mr. BARKLEY. The bill provides that every employee shall have the same remedy against the company that he had before. That is not limited by the fact that the Director General might order any train to go over any part of the road.

Mr. COOPER of Ohio. I understand that the gentleman from Wisconsin [Mr. LENROOT] has an amendment to the section, and I hope it will be agreed to.

Mr. CLARK of Pennsylvania. The laws of the States are not applicable if they are in conflict with the order of the President.

Mr. COOPER of Ohio. Section 14, which has to do with the length of time that the Federal Government shall control the railroads after the war is over, was discussed probably more than any other section in the bill. I believe that the railroads should go back to their owners no later than one year after the proclamation of peace, but there are some who would have the Government control the railroads indefinitely. Some members of the committee desire this. Mr. McAdoo, the Director General, and Mr. Anderson, of the Interstate Commerce Commission, favor indefinite control of the railroads. Now, I claim that the act of August, 1916, does not give the President the power to take over the railroads to control and operate them in times of peace. This act provides that the President in time of war shall have the power to take over our railroads—for what? For the transportation of troops, war material and equipment, or for such other purposes connected with the emergency. When this power was given to the President, it was not contemplated that it should be used in times of peace. When this power was granted we were having trouble with Mexico and were getting into the European conflict as fast as we could. But there was a limitation placed in this act, and that was that the President should be vested with this power during the time of war. We find that this same power was given to the President during the Civil War. In the act passed January 31, 1862, we find in section 5 these words:

And be it further enacted, That this act, so far as it relates to the operating and using said railroads, shall not be in force any longer than is necessary for the suppression of this rebellion.

And I read from the minority view the following:

We believe that such control should terminate as speedily as is consistent with due regard for the rights and interests of both the Government and the carriers and that one year or less after the proclamation of peace within which to make the proper readjustments would be reasonable. Congress in practically every war-emergency bill it has enacted has limited its operation to "the continuance of the war" or to six months or one year thereafter. It did this in the priority-of-ships-ments act, the espionage act, the trading-with-the-enemy act, the food control and food survey acts.

Now, why should we extend this power in the time of peace? I believe that to take over the railroads indefinitely means Government ownership, and at this time I am unalterably opposed to our Government undertaking such a proposition. If we are going to embark in Government ownership of railroads, we should take up this question in times of peace, not when the world is all afire and upside down. I, for one, am not ready to go into the question of Government ownership at this time. If we take up this question at all, we should meet it in the daylight, and not in the dark. If we are going to consider this question, let us meet it in the right spirit and at the right time, when our country is normal, not abnormal.

But there are some who would have the question of Government ownership sneak into this bill like the prowler comes into your home at night. Under the pretense of it being a war measure, they are trying to force upon the people of this country Government ownership without any study whatsoever of the question.

To place in this bill an indefinite time as to when the railroads shall go back to their owners, we create an uncertainty which would take the heart out of the men who have had charge of the operation of our railroads previous to the war. It seems to me that in order to keep our railroads up to the highest standard of efficiency we should set a definite time in this bill as to when these roads should go back to their owners and operators. Why some should want to experiment with Government ownership at this time I do not know, for it is a known fact that under Government ownership and control of railroads in other countries the cost of operation and the rates far exceed those of our own country under private control, and at the same time the service is not nearly as efficient, and the wages of the employees are much lower. The wage conditions of the American railway employees are bad to-day. Let me say in passing, while I am on

this question, that I believe the railroad men are the poorest paid class of skilled workmen in our country to-day, and to my mind the Government should at once grant an increase in wages to the American railroad employees. They are entitled to an increase, and should have it.

I listened with much attention to the speech of my colleague, Mr. STEPHENS of Nebraska, which he delivered on Tuesday. I can not agree with Brother STEPHENS when he says that the railroads of this country are operated by a gang of highbinders, crooks, and wrecking crews, as he calls them. I believe that there are just as honest, noble, patriotic, big business men at the head of the operating departments of our railroads as there are in any of the other business institutions of our country.

Mr. GREEN of Iowa. If the gentleman will permit, I think the gentleman from Ohio has somewhat misunderstood the gentleman from Nebraska [Mr. STEPHENS]. I do not think he referred to the railroad officials in general, but he meant to be understood, when he used the term "highbinders and thieves," to refer to that class of people that wrecked the Rock Island and the New Haven.

Mr. COOPER of Ohio. It is true that he referred to the Rock Island and the New Haven, but because they went wrong it does not follow that all the rest of the managers of the railroads in the country are highbinders and thieves. Most of these men have gone through the hard knocks of life, and through perseverance, hard work, and honesty have worked up the ladder to the top. I can not understand why some people are forever knocking the railroads and calling their owners and operators highbinders and crooks, for I think I can say that the United States has the finest and the most efficient system of railroads of any country in the world. And yet there is no business or industry in this country which has been legislated against and condemned more than our railroads. Let us try and be fair to the railroads and give them a square deal and help them when they need helping instead of clubbing them when they are down, such as they are now, which was brought on by no fault of theirs, but by reason of the great abnormal condition which exists in the world to-day. [Applause.]

Mr. ESCH. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. MASON].

Mr. MASON. Mr. Chairman, I do not wish to take the time of the committee. I yield back the time, if I may have unanimous consent to extend my remarks in the Record.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to extend his remarks in the Record. Is there objection?

Mr. WALSH. Mr. Chairman, reserving the right to object, is he going to extend his remarks upon this bill?

Mr. MASON. Mr. Chairman, I decline to answer the gentleman.

Mr. WALSH. Mr. Chairman, I object.

Mr. MASON. Then I shall take the time. I am much obliged to the guardian of the ink pot who permits me to waste two or three days to present to the people of this country the humble petition of the Irish-Americans who wish to get into the Record a statement by Mr. McCartan in regard to the effect of the proposed conscription, which could have been inserted within the past two days without taking the time of the committee, and I take the 10 minutes now to read his statement. If I shall read a little fast in order to conserve and economize time, I hope the distinguished gentleman who is opposed to the filing of this petition will make due allowance for my fast reading.

[Memorandum dispatched to the Secretary of State of the United States from the envoy of the provisional government of Ireland.]

FEBRUARY 17, 1918.

SIR: As the representative of the provisional government of Ireland, accredited to the United States, I have the honor to request you to bring to the notice of your Government the following observations concerning the treaty now in process of negotiation between the United States on the one hand and Great Britain on the other, whereby residents in the United States who are claimed as nationals by Great Britain may become available for military purposes.

The Irish born who reside in this country are separated by the American Government into three categories: First, American citizens by naturalization; second, declarants, or "such as have taken out their first naturalization papers and thereby declare their intention and desire to become full citizens of the United States"; third, aliens, those whose status as Irish nationals is beyond question.

Over the members of the first of these categories the United States alone exerts authority, an authority which the contemplated treaty can not influence, and which the provisional government of Ireland fully recognizes.

The formal declaration of intention to become a citizen of the United States is accompanied by an explicit statement of purpose to renounce allegiance to the sovereignty to which the declarant is subject. Basing its action upon this purpose of renunciation, Congress ordained, by the selective-service act of 1917, that cobelligerent declarants were liable to military duty in the United States on the same terms as citizens by birth or by adoption. In other words, citizens and declarants were placed upon an equality of sacrifice in defense of the United States. The ratio of cobelligerent declarants called to those accepted

for service was higher than that among citizens naturalized by pre-war legal forms, and only slightly lower than that among citizens by birth. (Provost Marshal General's Report, p. 55.)

Civic sacrifice carries with it an inalienable right to privileges. This principle is well recognized by your Government and already modifies the process of naturalization for enlisted aliens in the Army and Navy. No State can in equity require the sacrifice of life to civic duty from any but a citizen. The enforcement by the State, and the acceptance by the cobelligerent declarants, of the supreme duty inherent to citizenship constituted a contract between the State and cobelligerent declarants. That contract implicitly extended to cobelligerent declarants the right to the privilege of citizenship of the United States. The selective-service act of 1917 in equity naturalized cobelligerent declarants, and was in accord with the established policy of the United States as laid down in section 1999 of the Revised Statutes of the United States.

Cobelligerent declarants were called upon for military service as a class. The demand for military service made upon them differed in no particular from the demand made upon other classes of citizen. Accident of age, ballot, health, or other circumstance, caused certain of these declarants to be discharged, exempted, rejected, or not called upon; but similar accidents affected in precisely similar ways both native-born and naturalized citizens. Such accidents can, therefore, in no wise affect the status of citizenship conferred implicitly by the selective-service act upon all cobelligerent declarants; that act was in nature a contract which can not be modified by treaty or convention.

As the provisional government of Ireland are maintaining on a front, where allied unity is not at present possible, the principle of self-determination, and as the United States Government entered the war to champion that principle, our respective countries are de facto cobelligerents, associates in a common struggle for this common cause. The fundamental right of every human being to voluntary expatriation, a right upon which your great country is built, a right for which many of your noblest died in the Wars of 1776 and of 1812, a right specifically established here for declarants by the expatriation law of 1868, a constitutional right which no executive officer may violate and which no treaty may restrict was exercised in intent by those of Irish birth who became declarants here. The provisional government of Ireland accepting the obligation implied by this cobelligerency, and upholding the right of expatriation, did not protest the inclusion of Irish-born declarants in the scope of the selective-service act of 1917, but tacitly acquiesced in that inclusion, which was therefore legally established. Hence it is far from my duty now to question the legality of this established fact; but I must protest against any attempt to reopen the matter by treaty or convention with a third power—Great Britain. The inclusion of the Irish born, who are declarant citizens, in the scope of the pending Anglo-American treaty would be contrary to justice and equity; would be a reversal by treaty of the action of Congress in the expatriation law of 1868 and in the selective-service act of 1917; would be an unconstitutional exercise of treaty-making authority; and would be a repudiation of the traditional American principles and policy. Hence the provisional government of Ireland refuses to believe that the Government of the United States has in contemplation any treaty with Great Britain which would discriminate against a group of coopted American citizens—the Irish declarants—who in this war have shown themselves the most devotedly loyal of all American citizens.

A treaty with Great Britain may properly concern only American residents of British origin who have made no legal expression of intent to become a citizen. The term "British" is correctly applied only to the English, Scotch, and Welsh. The Government of Great Britain—i. e., of England, Scotland, and Wales—has the right to enter into agreements with the United States regarding only the British residents here and the resident who was formerly an inhabitant of a British Crown colony such as Jamaica, which is governed from the British colonial office. But Great Britain can not enter into agreements on behalf of the self-governing dominions such as Canada. Hence, I am informed, Canadian aliens are included in this treaty by a separate convention with the Government of Canada. Canada could enter into such an arrangement for the draft is legal in Canada. But citizens of a self-governing colony, which like South Africa has refused to consider conscription, or which like Australia has specifically rejected conscription, can not be made subjects of draft conventions between the United States and Great Britain without impugning their jealously cherished rights of sovereignty. To conscript Boers or Australians here would be not only to deny the right of self-determination which these people claim and now enjoy, but would also be tantamount to American recognition of the right of England to conscript Boers and Australians as the Romans conscripted the barbarians—without the sanction of the conscripted and for the benefit of the Empire; that is, England.

Last summer the British Premier, in the name of and by the authority of the British Government, declared that a convention of Irishmen should meet to determine a plan for the government of Ireland within the British Empire. He thus conceded that Ireland is a small nationality, entitled to government by Irishmen; and in a somewhat Teutonic form be applied the principle of self-determination to Ireland by creating the Irish convention. Even the British thus pretend to recognize Ireland's right to be self-governing. Even the British do not attempt to apply conscription in Ireland. And the Provisional Government of Ireland wholly denies the authority of Great Britain, or of any other State, to conscript such Irish nationals as circumstance has for the moment removed from the protection of the Provisional Government of Ireland. It has not been the habit of the Government of your great, liberty-loving Republic to exploit the defenseless; and I am confident our Government need be under no apprehensions now on this score. Hence, in submitting this memorandum against the inclusion of Irish nationals in the scope of the pending treaty, I wish clearly to disavow all intention to impute to your Government the motive which might be supposed to require this protest. Among the Irish here who have not already volunteered as refugees of the revolutionary government of Ireland. It is of the ethics of statehood to give sanctuary to political refugees. Even the unspeakable Turk refused, at the risk of war, to deliver up to Austria and Russia the Hungarian revolutionaries who within living memory sought haven at Constantinople. And I do not for a moment fear that the Irish refugees in the United States who conscientiously object to aid, either directly or indirectly, in the aggrandizement of the British Empire will be forced by treaty to attempt to flee to Mexico in search of a safety denied them here.

The results to be obtained from the inclusion of the Irish in such a treaty are negligible. Among immigrants the Irish are of the first to seek citizenship. Of the hundreds of thousands of adolescent Irishmen who before the war found existence impossible in an English-ridden Ireland almost all have become declarants or citizens, almost all are

taking their place alongside the native-born American in this war. For the total number of Irish aliens between the ages of 21 and 30, inclusive, registered in the United States was only 20,840. Would there be any need to impress the handful of these who when called would not volunteer, if the four and a half divisions, which Sir P. E. Smith told us were with machine guns governing Ireland, were sent to France?

In objecting to conscription here under a British treaty, Irishmen are influenced solely by the desire not to compromise their nationality. In the American Army about 25 per cent of the draft are of the Irish race. Indeed, among the cobelligerent aliens here who were called in the draft, and, who, waiving the exemption to which they were entitled as aliens, were accepted for service, the Irish ranked easily first in devotion to the country which was giving them sanctuary. From the Provost Marshal General's report, appendix 33a, the following percentages are computed:

Percentage of the total alien cobelligerents called who waived exemption and were accepted.

Ireland	30.4
Belgium	24.4
Scotland	24.2
England	22.5
Wales	22.0
Serbia	21.7
Canada	21.0
France	19.4
Italy	16.8

Of the total registered citizens and declarants called 27.06 per cent were certified for service. (Provost Marshal General's Report, p. 55, table 27.) The Irish alien, with 30.4 per cent, has therefore already made a relatively better contribution to the defense of the United States in this war than even the United States citizen. I can not conceive that he is now to be rewarded for this unequalled demonstration of friendship for the United States by a treaty which makes his nationality a matter of barter between the Governments of the United States and of Great Britain.

On January 5 Premier Lloyd-George announced that Great Britain was fighting for the principle of self-determination; extended the application of that principle even to the African Askari. On February 11 President Wilson, in his address to Congress, asserted that America's essential aim in the war was to establish the principle of self-determination in the law of nations. It is axiomatic that a principle worthy of the sacrifice which civilization is being called upon to offer in this contest, must be of universal application, valid alike for friend and for foe; that those to whom the benefits of the principle are denied may not be conscripted for sacrifice to secure these benefits for others; and that no power can rightly claim to be devoting men, money, and munitions to the defense of a principle which that power does not observe within its own territory. As Ireland is indisputably a nation, the principle of self-determination is as applicable to Ireland as it is, say, to Poland or to Palestine; the Irish must first be guaranteed the exercise of their own right of self-determination before they can be expected to die for the freedom of foreign nationalities; and so long as that guaranty is refused, the validity of the principle is questionable, and the right of the allies to champion that principle needs proof. No group can justly seek to impose by force upon a selected enemy a principle which is repudiated by any of its members; self-determination is not a punitive principle to be applied only to the enemy.

Any treaty by which Irish nationals would become liable to conscription here, if arranged without the sanction of the provisional government of Ireland, would violate the right not merely of Irish Nationals but of plain people everywhere, and would implicitly discredit the good faith of any champion of self-determination who might be party to it. Hence, I feel assured that the Government of the United States will not enter into any treaty with the Government of Great Britain, by which the Irish people here will be "bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game."

I am, sir,

Your obedient servant,

PATRICK MCCARTAN, F. R. C. S.,
Envoy of the Provisional Government of Ireland.

Mr. Chairman, the reason I wanted that in the RECORD is not only because it was requested by my constituents, but because I wanted to bring it before the Congress, and I have no doubt that the question raised by Mr. McCartan will be provided for. It will be hardly fair for our Government to ask for, or the Government of Great Britain to attempt to give, the power to conscript men in this country whom she can not conscript in their own country.

Mr. SIMS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. RUSSELL, as Speaker pro tempore, having assumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 9685 and had come to no resolution thereon.

PANAMA RAILROAD CO. (S. DOC. NO. 179).

The SPEAKER pro tempore laid before the House the following message of the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Senate and House of Representatives:

I transmit herewith, for the information of the Congress, the sixty-eighth annual report of the board of directors of the Panama Railroad Co. for the fiscal year ending June 30, 1917.

WOODROW WILSON.

THE WHITE HOUSE, February 20, 1918.

LEAVE OF ABSENCE.

The SPEAKER pro tempore. The Chair lays before the House the following request for leave of absence, which the Clerk will report.

The Clerk read as follows:

Mr. TIMBERLAKE requests leave of absence for one day, February 22, 1918, to make a patriotic address before the Woman's Section, Council of National Defense, at Annapolis, Md.

The SPEAKER pro tempore. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, that is a very unusual form in which to make such a request. Is the gentleman present?

The SPEAKER pro tempore. The Chair does not see him. Mr. GARRETT of Tennessee. It is a very unusual form. However, if the gentleman is not here, I shall not object.

The SPEAKER pro tempore. Is there objection?

There was no objection.

HOOR OF MEETING TO-MORROW.

Mr. SIMS. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER pro tempore. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. SIMS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 55 minutes p. m.), in accordance with the order heretofore made, the House adjourned until to-morrow, Friday, February 22, 1918, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury relating to the extension of the provisions of the bill to supply Army officers with uniforms, etc., at cost to officers of the Public Health Service engaged at national cantonments (H. Doc. No. 955); to the Committee on Military Affairs and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Commissioners of the District of Columbia submitting supplemental estimates of appropriation required by the District of Columbia for the fiscal year 1919 (H. Doc. No. 956); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HOUSTON, from the Committee on the Territories, to which was referred the bill (H. R. 9960) to prohibit the sale, manufacture, and importation of intoxicating liquors in the Territory of Hawaii during the period of the war, reported the same with amendment, accompanied by a report (No. 326), which said bill and report were referred to the House Calendar.

Mr. PADGETT, from the Committee on Naval Affairs, to which was referred the bill (S. 3126) to provide temporary promotion for retired officers of the Navy and Marine Corps performing active duty during the period of the present war, reported the same with amendment, accompanied by a report (No. 329), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 7638) to authorize the Secretary of the Navy to make payment to the employees of the Navy for leave not taken and used by the employees, reported the same without amendment, accompanied by a report (No. 330), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 9390) to promote the efficiency of the Navy, and for other purposes, reported the same without amendment, accompanied by a report (No. 331), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 8986) to pay a cash reward to civilian employees of the United States Navy, reported the same with amendment, accompanied by a report (No. 332), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 8983) to amend an act approved May 27, 1908 (35 Stat., pp. 417, 418), and for other purposes, reported the same without amendment, accompanied by a report (No. 334), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 7327) to amend an act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1917, and for other purposes," approved August 29, 1916, reported the same without amendment, accompanied by a report (No. 333), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. GLASS: A bill (H. R. 10104) to amend and reenact sections 4, 11, 16, 19, 22, and 25 of the act approved December 23, 1913, and known as the Federal reserve act, and sections 5208 and 5209, Revised Statutes; to the Committee on Banking and Currency.

By Mr. ANDERSON: A bill (H. R. 10105) to amend section 2, of part B, of the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1917, and for other purposes," approved August 11, 1916, known as the United States grain-standards act; to the Committee on Agriculture.

By Mr. PHELAN: A bill (H. R. 10106) to authorize national banking associations to establish branches; to the Committee on Banking and Currency.

By Mr. GANDY: A bill (H. R. 10107) authorizing the Secretary of War to deliver to the town of White River, S. Dak., one condemned bronze or brass cannon or fieldpiece and suitable outfit of cannon balls; to the Committee on Military Affairs.

By Mr. SMITH of Michigan: A bill (H. R. 10108) increasing rates of pensions of soldiers and sailors of the Civil War and the War with Mexico; to the Committee on Invalid Pensions.

By Mr. MADDEN: Resolution (H. Res. 255) for the consideration of H. R. 9414; to the Committee on Rules.

By Mr. BURROUGHS: Joint resolution (H. J. Res. 251) proposing amendments to the Constitution of the United States giving the right of suffrage, of representation in Congress, of choice of President and Vice President, and equal rights in the courts to the people of the District of Columbia, and for the safe transmission of the Executive power; to the Committee on the Judiciary.

By Mr. ROGERS: Memorial of the General Court of the Commonwealth of the State of Massachusetts, favoring the ratification of regulations establishing a closed season on water fowl; to the Committee on Agriculture.

Also, memorial of the General Court of the Commonwealth of Massachusetts, favoring the creation of a league of nations to safeguard permanent peace at the termination of the present war; to the Committee on Foreign Affairs.

By Mr. TINKHAM: Memorial of the General Court of the Commonwealth of Massachusetts, favoring the ratification of regulations establishing a closed season on water fowl; to the Committee on Agriculture.

Also, memorial of the General Court of the Commonwealth of Massachusetts, favoring the creation of a league of nations to safeguard permanent peace upon the termination of the present war; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 10109) granting an increase of pension to Oscar Dunham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10110) granting an increase of pension to Zachariah Allbaugh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10111) granting an increase of pension to Samuel Gilbert; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10112) granting an increase of pension to Milton Mahaffey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10113) granting an increase of pension to Charles Mountain; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10114) granting a pension to Alfred Andrews; to the Committee on Invalid Pensions.

By Mr. DEWALT: A bill (H. R. 10115) granting an increase of pension to William H. Shunk; to the Committee on Pensions.

Also, a bill (H. R. 10116) granting an increase of pension to Frank W. Henninger; to the Committee on Invalid Pensions.

By Mr. DILL: A bill (H. R. 10117) granting a pension to Edwin E. Robertson; to the Committee on Pensions.

By Mr. FIELDS: A bill (H. R. 10118) granting an increase of pension to Ella G. Hamrick; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10119) granting an increase of pension to Joseph H. Hamrick; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 10120) granting an increase of pension to Joseph Loughry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10121) granting an increase of pension to James A. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10122) granting an increase of pension to Dennis G. Morgan; to the Committee on Invalid Pensions.

By Mr. GARD: A bill (H. R. 10123) granting an increase of pension to William H. McCurdy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10124) granting a pension to Jesse A. R. Forbes; to the Committee on Pensions.

Also, a bill (H. R. 10125) for the relief of Jacob Shoup; to the Committee on Military Affairs.

By Mr. GILLET: A bill (H. R. 10126) granting a pension to Esmeralda C. Adams; to the Committee on Invalid Pensions.

By Mr. HAMILTON of New York: A bill (H. R. 10127) granting a pension to Pheba A. Vaughn; to the Committee on Invalid Pensions.

By Mr. HAYDEN: A bill (H. R. 10128) granting an increase of pension to Lucian B. Walker; to the Committee on Invalid Pensions.

By Mr. KETTNER: A bill (H. R. 10129) to transfer Frederick W. Cobb from the list of chief machinists, United States Navy, to the list of chief pay clerks, United States Navy; to the Committee on Naval Affairs.

By Mr. KEY of Ohio: A bill (H. R. 10130) granting an increase of pension to Henry M. Inman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10131) granting an increase of pension to Benjamin Ott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10132) granting a pension to Fanny Simpson; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 10133) granting a pension to Mary Diven; to the Committee on Pensions.

By Mr. LUNDEEN: A bill (H. R. 10134) granting a pension to Patrick H. May; to the Committee on Pensions.

Also, a bill (H. R. 10135) granting a pension to William J. Linn; to the Committee on Pensions.

Also, a bill (H. R. 10136) granting a pension to Harry Vining; to the Committee on Pensions.

Also, a bill (H. R. 10137) granting a pension to Catherine Mahady; to the Committee on Pensions.

Also, a bill (H. R. 10138) granting a pension to Maggie Coss; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10139) granting an increase of pension to Robert A. Robinson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10140) granting an increase of pension to Mathias Logelin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10141) granting an increase of pension to Conrad H. Rowe; to the Committee on Pensions.

By Mr. MOORES of Indiana: A bill (H. R. 10142) granting a pension to Elizabeth M. Steele; to the Committee on Pensions.

Also, a bill (H. R. 10143) granting a pension to Andrew R. Lewis; to the Committee on Pensions.

By Mr. MONDELL: A bill (H. R. 10144) granting a pension to Stanley S. Courtright; to the Committee on Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 10145) granting an increase of pension to William S. Webb; to the Committee on Invalid Pensions.

By Mr. PARK: A bill (H. R. 10146) granting a pension to Eugene A. Hendricks; to the Committee on Pensions.

By Mr. POWERS: A bill (H. R. 10147) granting a pension to Alexander P. Steele; to the Committee on Invalid Pensions.

By Mr. RANDALL: A bill (H. R. 10148) granting a pension to Josephine Parker; to the Committee on Invalid Pensions.

By Mr. ROBBINS: A bill (H. R. 10149) granting an increase of pension to James H. Stone; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 10150) granting an increase of pension to Frank B. Weed; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10151) granting an increase of pension to Ephraim Brower; to the Committee on Invalid Pensions.

By Mr. SANDERS of Louisiana: A bill (H. R. 10152) to carry into effect the findings of the Court of Claims in favor of Elizabeth White, administratrix of estate of Samuel N. White, deceased; to the Committee on War Claims.

By Mr. SEARS: A bill (H. R. 10153) granting a pension to George Gwynne; to the Committee on Pensions.

Also, a bill (H. R. 10154) granting a pension to Narcissa A. Grant; to the Committee on Pensions.

By Mr. SLEMP: A bill (H. R. 10155) granting a pension to Pleasant D. Cooper; to the Committee on Pensions.

By Mr. CHARLES B. SMITH: A bill (H. R. 10156) granting a pension to John Moc t, jr.; to the Committee on Pensions.

By Mr. SNOOK: A bill (H. R. 10157) granting an increase of pension to Frank B. Gorman; to the Committee on Pensions.

By Mr. STEPHENS of Mississippi: A bill (H. R. 10158) to allow credits in the accounts of certain disbursing officers of the Army; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions of the Child Culture Club, Ogden, Utah; the Mishawaka Woman's Club, Mishawaka, Ind.; and the Woman's Improvement Club, Corona, Cal., urging the repeal of the second-class postage provisions of the war-revenue act; to the Committee on Ways and Means.

By Mr. CARY: Resolutions of the Newton Federation of Women's Clubs, Newtonville, Mass.; the Mishawaka (Ind.) Woman's Club; and the Child Culture Club, Ogden, Utah, asking for the repeal of the periodical postage provisions of the war-revenue act; to the Committee on Ways and Means.

Also, resolution of the German-American Central Verein, of Spokane, Wash., protesting against the passage of a law to rescind the charter of the German-American Alliance of the United States of America; to the Committee on the Judiciary.

By Mr. CLARK of Pennsylvania: Petition of Anna Foley, Margaret Walthausen, Minnie Kutz, A. G. Hansen, and 18 others, officers and members of Lounsbury Hive, No. 14, Macabees, favoring passage of House bill 7995, for the preservation of the Niagara, Commodore Perry's flagship in the Battle of Lake Erie; to the Committee on Military Affairs.

By Mr. DALE of New York: Petition of Newton Federation of Women's Clubs, of Newtonville, and Progressive, Literary, and Fraternal Club of Bellingham, Wash., against increase on second-class mail rates; to the Committee on Ways and Means.

Also, petition of Hon. P. Hall Packer, of Sea Bright, N. J., favoring legislation for the protection of the beach at Sea Bright, N. J.; to the Committee on the Merchant Marine and Fisheries.

Also, petition of Woman's Improvement Club, of Corona, Cal., and Child Culture Club of Ogden, Utah, against increase in second-class postage; to the Committee on Ways and Means.

By Mr. FOSTER: Petitions of Woman's Christian Temperance Union and Woman's Club of Kinmundy, and citizens of Kell, Ill., urging repeal of the second-class postage rate; to the Committee on Ways and Means.

By Mr. FULLER of Illinois: Petitions of the Newton Federation of Women's Clubs, of Newtonville, Mass.; the Child Culture Club of Ogden, Utah; and the Woman's Improvement Club of Corona, Cal., for the repeal of the second-class postage provisions of the war-revenue act; to the Committee on Ways and Means.

Also, memorial of the Farmers Cooperative Grain Dealers' Association of Iowa, relative to the pending railroad bill; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON of New York: Evidence to accompany H. R. 10042, granting an increase of pension to James Stapleton; to the Committee on Pensions.

By Mr. KIESS of Pennsylvania: Testimony in support of H. R. 9801, for the relief of Susie A. Van Kirk; to the Committee on Naval Affairs.

Also, evidence in support of House bill 9542, granting a pension to Uriah Adams; to the Committee on Invalid Pensions.

By Mr. SNEEL: Petition of citizens of Madrid, N. Y., urging favorable action on national emergency war prohibition; to the Committee on the Judiciary.

Also, petition of pharmacists of Dannemora, N. Y., and vicinity, urging support of the Edmonds bill (H. R. 5531) to increase the efficiency of the Medical Department of the United States Army, to provide a pharmaceutical corps in that department, and to improve the status and efficiency of the pharmacists in the Army; to the Committee on Military Affairs.

By Mr. TILSON: Petition of Connecticut Council of Defense, favoring passage of Senate bill 1786, relating to the Medical Corps in the Army; to the Committee on Military Affairs.

By Mr. VARE: Memorial of the Commercial Exchange of Philadelphia, Pa., in support of the resolutions of the Atlantic Deeper Waterways Association; to the Committee on Rivers and Harbors.

SENATE.

FRIDAY, February 22, 1918.

(Legislative day of Thursday, February 21, 1918.)

The Senate met at 11 o'clock a. m.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Beckham	Jones, N. Mex.	Nugent	Smoot
Culberson	Jones, Wash.	Overman	Sterling
Curtis	Kellogg	Owen	Stone
Dillingham	Kendrick	Page	Sutherland
Fernald	Kenyon	Poindexter	Swanson
Fletcher	King	Ransdell	Thomas
Frelinghuysen	Kirby	Reed	Tillman
Gallinger	Knox	Robinson	Townsend
Gerry	Lewis	Shafroth	Trammell
Hale	McKellar	Sheppard	Vardaman
Hardwick	McNary	Sherman	Warren
Henderson	Martin	Smith, Ga.	Williams
Hollis	New	Smith, Md.	
Johnson, S. Dak.	Norris	Smith, S. C.	

Mr. McNARY. I wish to announce the absence of my colleague [Mr. CHAMBERLAIN] on account of illness.

Mr. LEWIS. Permit me to announce the absence of the Senator from Kentucky [Mr. JAMES] and the Senator from Oregon [Mr. CHAMBERLAIN], occasioned by personal illness. I ask to have the announcement stand for the day.

Mr. SUTHERLAND. My colleague, the senior Senator from West Virginia [Mr. GOFF], is absent owing to illness. I ask that this announcement may stand for the day.

Mr. MCKELLAR. I desire to announce the absence of the senior Senator from Tennessee [Mr. SHIELDS] on public business.

The VICE PRESIDENT. Fifty-four Senators have answered to the roll call. There is a quorum present.

Among the rules of the Senate is the following rule:

No request by a Senator for unanimous consent for the taking of a final vote on a specified date upon the passage of a bill or joint resolution shall be submitted to the Senate for agreement thereto until, upon a roll call ordered for the purpose by the presiding officer, it shall be disclosed that a quorum of the Senate is present; and when a unanimous consent is thus given, the same shall operate as the order of the Senate, but any unanimous consent may be revoked by another unanimous consent granted in the manner prescribed above upon one day's notice.

In accordance with that rule, the Senate entered into this unanimous-consent agreement:

It is agreed, by unanimous consent, that at not later than 2 o'clock p. m., on the legislative day of Thursday, February 21, 1918, the Senate will proceed to vote upon any amendment that may be pending, any amendment that may be offered, and upon the bill S. 3752, a bill to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes, through the regular parliamentary stages to its final disposition; and that from and after the hour of 2 o'clock p. m. up to the hour of 6 o'clock p. m. of the calendar day of Thursday, February 21, 1918, no Senator shall speak more than once or longer than 10 minutes upon the bill or any amendment offered thereto; and that after the last-named hour on the said calendar day of Thursday, February 21, 1918, no Senator shall speak more than once or longer than 5 minutes upon the bill or any amendment offered thereto.

It will be observed that by this unanimous-consent agreement the bill (S. 3752) must proceed to its final disposition through the regular parliamentary stages during the legislative day of February 21, 1918. The Senate held until 6 o'clock of the calendar day of February 21, 1918, at which time the right to 10-minute speeches upon the bill or any amendment thereto expired. It then recessed until to-day, the calendar day of February 22, at the hour of 11 o'clock a. m. This still being the legislative day of February 21, 1918, there is nothing in the unanimous-consent agreement that requires a vote to be taken at any definite hour upon the legislative day of February 21, 1918.

There is another order of the Senate made in the year 1901 to the effect that, unless otherwise ordered, on the 22d day of February in each year, or if that day shall be on Sunday, then on the day following, immediately after the reading of the Journal, Washington's Farewell Address shall be read to the Senate by a Senator to be designated for the purpose by the presiding officer.

The Chair is confronted by two orders of the Senate. If they could not be construed together so as to keep each of them in force the Chair would be compelled to hold that the unanimous-consent agreement touching the pending bill took precedence. But the Chair does not believe that there is any conflict between the two agreements in view of the fact that no Senator can lose any right. The debate will not thereby be cut off if the Chair shall hold that the order with reference to the reading of Washington's Farewell Address is in order. The Chair believes it is in order, and unless there be an appeal taken from